

SENATE—Thursday, May 9, 1991

(Legislative day of Thursday, April 25, 1991)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

The PRESIDING OFFICER. The prayer will be offered by the guest chaplain, Rev. Dr. Abraham Akaka, pastor emeritus of Kawaiahao Church, Honolulu, HI.

My brother.

PRAYER

The guest chaplain, the Reverend Abraham Akaka, pastor emeritus of the Kawaiahao Church, Honolulu, HI, offered the following prayer:

Let us pray:

God has made of many national and ethnic, political and economic, religious and social diversities, but of one blood—all His children to dwell on the face of one Earth. Almighty God, our Father, as our ancient Hawaiian ancestors found new islands of life and order, sailing their brave voyaging canoes even in the face of deadly storms, by making and maintaining connection with their right guiding star, so let it be with our beloved Nation and with all peoples of our planet.

Bless our President, our Senate, and House, all who bear authority in government, nationally and locally, that by following the starlight of Your truth, justice, and love, we may help our Nation and all nations gain our right bearings with Thee.

Let no one play games with the light of Your truth and justice—and thus place our canoe in harm's way. Help us lead our Nation and all nations in turning clenched fists into open hands of friendship and family, in finding together the best ways for sailing our common canoe surely and safely to our promised new space island.

Let our connection with thy light turn MC²—massive cremation squared, into CM²—creative mutuality squared, that we and all mankind may become one winning crew—sailing our space canoe faithfully with Thee to our New World Order.

In the name of Jesus Christ, our Lord—Adonai Elohaynu Adonai Echod—for the Lord our God is one Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 9, 1991.

To the Senate:

Under the provisions of Rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask the Senate to pause for a moment and note a rare and inspiring event which has just occurred when the prayer was read by the Reverend Akaka, brother of Senator AKAKA, now the Presiding Officer, and a Member of the U.S. Senate from Hawaii.

The people of Hawaii and the Akaka family can take justifiable pride in the service of two sons to the people of their State in two different but honorable ways.

The Reverend Akaka serves the spiritual needs of the people of Hawaii. Senator AKAKA serves with great distinction the material needs of the people of Hawaii.

We are honored to have Senator AKAKA as a valued and beloved Member of this body, and we are very pleased and honored to welcome his brother today and thank him for his very fine prayer.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Hawaii is recognized.

THE REVEREND DR. ABRAHAM AKAKA, GUEST CHAPLAIN

Mr. AKAKA. Mr. President, I thank the leader for his generous remarks, and I appreciate his remarks, because our relationship in our family is very close.

It is indeed a signal honor and a privilege for me to be permitted by the U.S. Senate to convene this honorable body today as its Acting President pro tempore, and a genuine personal pleasure to introduce my brother, the Reverend Dr. Abraham K. Akaka, to give the opening prayer.

Brother Abe, as our family knows him; or "kahu," meaning "shepherd" in Hawaiian, as many in our community in Hawaii know him, was born in Honolulu 74 years ago. He began his service to the Lord and our people after graduating from the Chicago Theological Seminary of the University of Chicago, with a bachelor of divinity degree.

He was the pastor of our Kawaiahao Church, the mother church of Hawaii, for 28 years. With brotherly love and family pride, I think I can fairly say that Brother Abe was Kawaiahao Church, and Kawaiahao Church was Brother Abe. He dedicated his life to serving our church and its parishioners and the greater Hawaii, and forgive me for my brotherly pride, but the church will not be the same again without him. In 1964, he lobbied here in Washington, DC, for the Civil Rights Act, was the first chairman of the civil rights commission for the State of Hawaii, and sent leis that were worn by Rev. Dr. Martin Luther King and his supporters in the Selma, AL, march. He began to organize the Congress of Hawaiian People, Friends of Kamehameha Schools, and Council of Hawaiian Organizations. He served as regent of the University of Hawaii.

Among the honors bestowed on my brother are honorary doctoral degrees from the Chicago Theological Seminary of the University of Chicago, the University of Hawaii, Illinois Wesleyan University, the University of the Pacific in Stockton, CA, and Salem College in West Virginia. He served as the chaplain in our territorial senate, and subsequently, our State senate. He gave our statehood sermon on May 13, 1959, and inspired our Hawaii State Legislature to name our State, "the Aloha State." Following Henry J. Kaiser, he received the Hawaii Salesman of the Year Award in 1952.

Brother Abe has been most ably assisted in his calling by his bride of 47 years, Mary Louise Jeffrey Akaka. They share their love with five children and seven grandchildren.

In retirement, Kahu continues to serve through the Akaka Foundation.

I yield back my time.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

* This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

THE SCHEDULE

Mr. MITCHELL. Mr. President, at 10:30 a.m. the newly appointed Senator from Pennsylvania, HARRIS WOFFORD, will be sworn in, and I encourage as many Senators as possible to be present at the time of his swearing-in ceremony.

There will then be a period for morning business to extend until 11 a.m. during which Senators will be permitted to speak for up to 5 minutes each. At 11 a.m. today the Senate will resume consideration of S. 429, the retail price maintenance bill.

Under the unanimous-consent agreement governing this bill, Senator THURMOND is to be recognized to offer an amendment to the pending Brown substitute amendment, and Senator METZENBAUM may offer an amendment to the Thurmond amendment.

Based upon my discussion last evening, both privately and here on the Senate floor, with the distinguished Republican leader and Senator THURMOND, it is my hope and expectation that we will be able to complete action on this bill during the day today.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, it is my understanding that under the previous order the period for morning business will commence now.

I note there are only a few minutes. I note the presence of the Senator from New Mexico on the floor. If he would like to address the Senate for a period between now and 10:30, that will be agreeable, but he should be aware that at 10:30 we are going to proceed to the swearing in of the newly appointed Senator WOFFORD.

The PRESIDENT pro tempore. The Senator from New Mexico is recognized for not to exceed 5 minutes.

Mr. BINGAMAN. I thank the Chair. (The remarks of Mr. BINGAMAN pertaining to the introduction of S. 1018 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SENATOR FROM PENNSYLVANIA

Mr. MITCHELL. Mr. President, I believe the newly appointed Senator WOFFORD is present and ready for the swearing in ceremony, accompanied by the distinguished Governor of Pennsylvania, Robert Casey, and the distinguished now senior Senator from Pennsylvania [Mr. SPECTER].

The PRESIDENT pro tempore. The Chair lays before the Senate the certificate of appointment of the Honorable HARRIS WOFFORD, as a Senator from the Commonwealth of Pennsylvania.

Without objection, it will be placed on file, and the certificate of appointment will be deemed to have been read.

The certificate of appointment is as follows:

COMMONWEALTH OF PENNSYLVANIA,
GOVERNOR'S OFFICE

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and of the laws of the Commonwealth of Pennsylvania, I, Robert P. Casey, the Governor of said Commonwealth, do hereby appoint Harris Wofford a Senator from said Commonwealth to represent said Commonwealth in the Senate of the United States until the vacancy therein, caused by the death of H. John Heinz III, is filled by election as provided by law.

Witness: His excellency our Governor Robert P. Casey, and our seal hereto affixed at Harrisburg, Pennsylvania this eighth day of May, in the year of our Lord one thousand nine hundred and ninety-one and of the Commonwealth the two hundred and fifteenth.

ROBERT P. CASEY,
Governor.

By the Governor:

CHRISTOPHER A. LEWIS,
Secretary of the Commonwealth.

The PRESIDENT pro tempore. If the Senator designate will present himself at the desk, the Chair will administer the oath of office as required by the Constitution and prescribed by law.

Mr. WOFFORD, of Pennsylvania, escorted by Mr. SPECTER and Gov. Robert Casey, of Pennsylvania, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the President pro tempore; and he subscribed to the oath in the official Oath Book.

[Applause, Senators rising.]

CONGRATULATIONS TO SENATOR WOFFORD

Mr. MITCHELL. Mr. President, it is a special pleasure for me to congratulate our newest colleague, Senator HARRIS WOFFORD, of Pennsylvania on the occasion of this taking the oath of office.

Under the Senate rules of precedence, Senator WOFFORD will be our most junior Member. He is now 100th in seniority. Having found myself in exactly that same situation almost exactly 11 years ago this week, I concluded then that it is better to be last in precedence in the U.S. Senate than first in precedence in most other institutions.

I no longer need this particular consolation, so I offer it to Senator WOFFORD in the hopes of standing him in good stead.

Mr. President, Senate rules of precedence cannot and do not overwhelm the experience and credentials every Senator brings to this institution.

In our newest Member, we have a colleague with years of experience of public service behind him. Senator WOFFORD has served in the executive branch of the U.S. Government under both Presidents Eisenhower and Kennedy.

But it is his commitment to the working families and communities of

Pennsylvania as secretary of labor for that State which makes him a particularly valuable addition to the Senate today.

The importance of maintaining and enhancing the competitiveness of American workers in a swiftly changing technological world cannot be overstated. The quality of life and the standard of living that our children will inherit depend on the work that is done in this generation to put into place the training and infrastructure essential to a strong work force.

As secretary of labor, HARRIS WOFFORD has devoted himself to that task with energy and imagination. His will be a crucial voice in helping shape national policy to ensure all our working families in America have the kind of future we want them to have.

HARRIS WOFFORD's career has been marked by an ability to develop ideas that work for their own time and long after.

His contributions to two of the major concepts of the postwar years deserves wide recognition. Senator WOFFORD was one of the members of the New Frontier who had the foresight and skill to think past the immediate military confrontation of the cold war period to the evolving international order that faces us all today.

He understood that armed confrontation with tyrannies and dictatorships was a necessary but not a sufficient guarantee of future American security. He knew the world would never be safe for American interests so long as it was hostile to American ideals.

And in his work in developing the Peace Corps, one of the major success stories of postwar American diplomacy, HARRIS WOFFORD gave our Nation one of its first and most potent tools for spreading and sharing that which is good in our Nation with the people of the world.

It is a legacy that has served our Nation well, under Presidents of both political parties, and its continuing success in the current dramatically changed international climate is testimony to the fact that a sound idea based on sound principles is never outdated.

His other major contribution was in his early recognition that in our Nation's domestic life, racial divisions and inequality before the law were malignancies that this society cannot endure.

He brings a welcome and needed additional perspective to this institution at a time when race relations in our country are strained and increasingly tense.

The people of Pennsylvania could not have wished for a more effective and energetic representative of their interests in this Chamber. I know him personally. I value his opinion highly, and I look forward to working closely with Senator WOFFORD in the future.

I invite all of my colleagues to join in welcoming our newest Senator to the U.S. Senate.

[Applause, Senator rising.]

Mr. DOLE addressed the Chair.

The PRESIDENT pro tempore. The Republican leader is recognized.

CONGRATULATIONS AND WELCOME TO SENATOR WOFFORD

Mr. DOLE. Mr. President, let me also extend my congratulations and my welcome to our newest colleague, Senator WOFFORD. He will be taking the place of our late friend and colleague, Senator John Heinz, who was dedicated, hard working, always looking out for the interests of Pennsylvania and, I know, a friend of the now Senator WOFFORD.

So we welcome you to this Chamber and to this body. Members on each side of the aisle will certainly want to be helpful to you, particularly on this side of the aisle, for the next few months and then we will see what happens beyond that time.

[Laughter.]

Mr. DOLE. In any event, welcome, congratulations, we look forward to working with you.

The PRESIDENT pro tempore. The Senator from Pennsylvania.

WELCOMING OUR NEW COLLEAGUE

Mr. SPECTER. I thank the Chair.

Mr. President, I join in welcoming our new colleague, Senator WOFFORD, to the Chamber of the U.S. Senate. He has had a very distinguished career as a practicing lawyer, as a law professor, and as president of Bryn Mawr College in Pennsylvania. He comes to this position after having served with distinction in Governor Casey's cabinet as secretary of labor and industry in Pennsylvania. He succeeds a great Senator with the departure through tragic death of our colleague, Senator John Heinz, who we will very sorely miss.

But it is a new day. I look forward to working cooperatively with SENATOR WOFFORD to promote the interests of the Commonwealth of Pennsylvania. I would also like to add, Mr. President, a special welcome to Governor Casey, who is in the Chamber today. He has positioned himself squarely between the two aisles.

As we noted earlier today, if Governor Casey could maintain the position, Mr. President, squarely between the two aisles, I would move to add a third Pennsylvania Senator, at least for a period of time. But, since I know that is beyond quite a number of the rules of human nature, as well as the rules of the Senate, I will simply welcome the Governor to our Chamber today, and again state my interest to work on a very cooperative basis with our new colleague for the welfare of

Pennsylvania and the United States. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from California [Mr. CRANSTON].

WELCOME, HARRIS WOFFORD, TO THE SENATE

Mr. CRANSTON. Mr. President, I am delighted, in fact I am thrilled, to welcome HARRIS WOFFORD to the U.S. Senate. I have known HARRIS for over 40 years. We met when he was a young student leader nationally, with efforts to strengthen the United Nations and to work for world peace. In addition to all the other strengths that he will bring to our body I know he will be a powerful, thoughtful voice and mind working for peace and for a better life for all the people of our country.

I want to congratulate Governor Casey for making a superb appointment. I do not think there could be a more qualified person to join us in the Senate, and I look forward to working with you, HARRIS, in the days to come.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

WELCOMING HARRIS WOFFORD TO THE SENATE

Mr. KENNEDY. Mr. President, I join in welcoming HARRIS WOFFORD to the Senate as the new Senator from Pennsylvania. Governor Casey has made an excellent choice. I have known Senator WOFFORD for 30 years, and he is one of the most outstanding and most dedicated public servants I have ever met. He was one of President Kennedy's most valued advisers in the New Frontier. He was one of the key architects of the Peace Corps, and of the Office of Economic Opportunity as well.

Most recently, in the last Congress, he gave impressive counsel to the Senate Labor Committee and to many others in the Senate in our effort to develop the Bipartisan National and Community Service Act, which was signed into law last year by President Bush, and which we hope will encourage young Americans of all ages to become involved more effectively in community service.

Senator WOFFORD comes to the Senate with an extraordinary understanding of the great challenges facing this country, and also with a thoughtful and well-developed vision of the kind of country America ought to be.

I look forward to working with him in the Senate in the next few months—and for many years to come.

The PRESIDENT pro tempore. The Senator from Delaware is recognized.

WELCOME, HARRIS WOFFORD

Mr. BIDEN. Mr. President, I have not known Senator HARRIS WOFFORD as long as others, but it has been 20 years. And we have worked together on many, many projects. Rather than repeat all that has been said about his obvious qualifications, his background, his interests, I would like to just point out one other feature about him.

First, I compliment Governor Casey, an old friend from the town from which I hail, a man I have known for many, many years, and have an inordinate amount of respect for. He picked a man to fill the shoes of a fine, honorable Senator who has passed away. He picked a man with impeccable integrity. This man is a man who has never shied away from what he believes, and saying what he believes. And he has never at any time in the 20 years that I have known him been reluctant to stand up, notwithstanding the fact that on occasion the winds were blowing the other way, and stand for principle.

He did it as the president of Bryn Mawr College, one of the finest colleges in the United States of America. He did it, up until a moment ago, in his capacity in the State of Pennsylvania. And he has done it as a personal adviser. And he has done it as a citizen of the State of Pennsylvania.

I can think of no one I have encountered in public life who, in fact, is more a man of principle and integrity than the new Senator from the State of Pennsylvania. And I can assure him that being 100th in the Senate passes. It is one of the few things, as he stays here, that he will easily overcome. It is the only thing we can assure him that he will overcome.

And I hope that, unlike the Senator from Maine who probably got a decent office when he came as number 100, he does not get the kind of office the Senator from Delaware got when he got here.

I will give him one little bit of consolation. There are certain criteria for determining who is the most junior person in the Senate. When I arrived here I was informed by then the Secretary of the Senate, Joe Stewart, and then the majority leader, Senator Mansfield, that, although they did not know—the only man who would truly know the answer to this, and I have never inquired of him and I have never taken the time myself, is the Presiding Officer who, as the saying goes, has forgotten more about the Senate than any living man knows about the Senate—but I was told somewhat jokingly and then as I explored it it seemed that it was true that I was almost the most junior person ever to come to the Senate.

As you know, HARRIS, had you not been appointed now, when you are elected, and I sincerely hope that will be the case, in November, seniority is determined not only by when you come

to the Senate. If it is close and you come with other people, as in the year I came, they determine what office you held prior to being here; they then determine the size of your State and population of your State; and they literally move down at some point, if it is close, to your age. Having been a 29-year-old Senator from the fifth smallest State in the Union and having held only office on the county council, I was given a garret office that no one knew existed.

So I want you to know I am sure, notwithstanding the fact you are number 100, you will be put in a position that has closer access to the floor. And, as a Senator from Maine will tell you, there is no telling what you can do in 11 years. Look what has happened to him. He now has 47 offices. That is a joke.

But, HARRIS, welcome. Your integrity, your principles and your absolute, unwavering commitment to public service will serve not only you well here but serve the Nation well.

I am delighted you are here, and again compliment Governor Casey for his fine appointment.

The PRESIDENT pro tempore. The Senator from Connecticut [Mr. DODD].

WELCOMING HARRIS WOFFORD

Mr. DODD. Mr. President, I want to join my colleagues in welcoming a good friend to the Senate. This body has suffered a great deal from the loss of John Heinz. In many ways, Mr. President, John is irreplaceable. Certainly irreplaceable to me as a friend, a colleague, and a person with whom I worked on various matters. But in replacing him, Governor Casey has chosen well. A former colleague of ours once said that the Senate is a place where people of reputation ought to come. Not where you come to make a reputation.

Senator WOFFORD, this morning, is joining a body where he brings a reputation. We need more of that, in my view, in public life.

Governor, you have chosen well by selecting this man. I am particularly pleased, because in many ways Senator WOFFORD is responsible for my entry to public life in that he was one of the architects of the Peace Corps. As one of those early volunteers over 25 years ago it was the seminal event, outside of my own familial experience, that has caused me to enter public life.

His background and experience, his knowledge, his caring for his State and his Nation I think is going to serve this body well and serve the State of Pennsylvania well. So I compliment the Governor and I welcome him.

The PRESIDENT pro tempore. The Senator from Illinois [Mr. SIMON].

WELCOME TO HARRIS WOFFORD

Mr. SIMON. Mr. President, I join my colleagues in welcoming HARRIS WOFFORD. I join my colleagues in welcoming Governor Casey on this excellent appointment.

I was a green, very green State legislator 28 years old when Martin Luther King asked me to speak in Montgomery, AL, for the second anniversary of the bus boycott. When I got down to Montgomery, AL, I met a fellow named HARRIS WOFFORD down there.

I have known and followed HARRIS WOFFORD through the years. Whether it is civil rights, or education, or standing up for working men and women, he is the kind of person that we in this Chamber can be very proud to be associated with.

I would add one other thing, Mr. President, because no one understands the traditions of this body more than the Presiding Officer. HARRIS WOFFORD is going to mesh well in the U.S. Senate. He is going to be a Senator that all of us will look to with pride.

It is an honor to have you here with us, HARRIS WOFFORD.

The PRESIDENT pro tempore. The Senator from Colorado [Mr. WIRTH] is recognized.

WELCOMING AN OLD FRIEND

Mr. WIRTH. Mr. President, I want to join my colleagues in welcoming an old friend, HARRIS WOFFORD, to fill this very important slot.

The distinguished Senator from Delaware spoke of principle and integrity. I would like to add a couple of other words that I think of in describing HARRIS WOFFORD: Idealism and commitment, two characteristics that too often get lost in the maelstrom of this institution.

The distinguished Presiding Officer has talked about the soul of the Senate, and there is a soul here that refers to our need to be looking ahead for future generations at themes in this country and goals in this country of enormous impact. When I think of HARRIS WOFFORD, I think of education, his wonderful commitment and job as president of two very distinguished institutions, his concern about competitiveness in our changing world, a job that he had in the State of Pennsylvania and conducted so well; finally, his overall view of the world and the globe, how it is changing, our definitions of national security is changing from the wonderful idea of the Peace Corps 30 years ago to our new sense of national security, the environment, a world that is not going to be defined, we hope, in the future by armed confrontation.

Mr. President, I am very pleased to welcome Senator WOFFORD whom I have known for a long time. The distinguished new junior Senator from Pennsylvania may not remember that in the

spring of 1961, when the Peace Corps was attempting to have Peace Corps service be an alternative for military service, I was at that point the guinea pig and I was going to be in Peace Corps I going to Africa and came to Washington and spent a good deal of time with HARRIS WOFFORD and others trying to convince my draft board in Jefferson County, CO—Mrs. Swanson, I remember her very well—that Peace Corps service would be something for which I would not be drafted.

I think that is the only thing you failed at was making the Peace Corps an alternative which we attempted to do at that point.

I went on to have a very interesting and good time in the military. It was good for me, and I hope good for the country. That was where I first met Senator WOFFORD, known him since and been a great admirer. It is that idealism and commitment, Mr. President. We look forward to it and I tell my colleagues we need it as well. Thank you very much.

The PRESIDENT pro tempore. The Senator from Vermont [Mr. LEAHY].

OUR NEWEST COLLEAGUE

Mr. LEAHY. Mr. President, I do not want to prolong this further, but we have been talking about the newest colleague being No. 100 in the Senate. I recall coming here as No. 99, I tell my friend from Pennsylvania. The reason I was 99 is that we only had 99 Senators at that time. It was January 1975. There had been a virtual tie in my neighboring State of New Hampshire and nobody was seated. Had there been somebody seated from New Hampshire, I would have been No. 100. I survived this.

There are advantages and disadvantages. At the time when I came, I explained to my friend, I knew the first thing that should be changed in the U.S. Senate was the seniority system, giving chairmanships and other positions to more senior Members. But having studied it for 17 years, I now understand it far better and realize what an admirable system it is. So I hope my friend will have at least as much time to study this as I have.

Certainly, you bring to the Senate a wealth of experience in the private sector, the academic sector and in the executive branch of Government. You are one who has the kind of experience that we need here in the Senate—a broad, diverse background—and one that touches on the most important issues that we will face here.

I commend the distinguished Governor of Pennsylvania, Governor Casey, for making this appointment. He has shown a respect for this great institution by seeking a person that all of us acknowledge is extremely well qualified to serve here.

I commend the Governor for doing that.

I commend you. I think it honors the U.S. Senate having you here. I am delighted to see you here.

Mr. WELLSTONE addressed the Chair.

The PRESIDENT pro tempore. The Senator from Minnesota.

HONORING SENATOR WOFFORD

Mr. WELLSTONE. Mr. President, I wish to, first of all, commend the Governor for his excellent appointment.

I say to Senator WOFFORD that I am really feeling good about my rise in seniority here in the Senate. That is not the only reason that I am so pleased you are here. I had found especially for the campaign I was involved in that all too many people in our country are very disconnected from politics, really do not believe in it, do not see the kind of goodness that I think there can be.

Given your very distinguished career in public service and your highly developed sense of public service, I think you bring so much to the Senate. I really look forward to working with you, and I am so pleased to be a part of honoring you here today.

Mr. WOFFORD addressed the Chair.

The PRESIDENT pro tempore. Will the Senate please be in order?

The 1,799th Senator to have given service to the U.S. Senate from its beginning in 1789, the junior Senator from Pennsylvania [Mr. WOFFORD] is recognized.

THANKS TO EVERYONE

Mr. WOFFORD. Mr. President, I want to thank everyone for giving me the kind of unusual experience that I am told you only have if you were there to hear your funeral. I now have a feel of what I would hope might be said then, and I thank all my friends here. My Minnesota wife salutes the Senator who has gained in seniority, the Senator from Minnesota [Mr. WELLSTONE].

Second, I would like to assure the Members of the other side of the aisle who do not know me as well, that in Pennsylvania I was teased for having more friends in the Republican Caucus of the Senate than in the Democratic Caucus, though I hope that is not necessarily true.

Third, looking up at "E Pluribus Unum," I realize that which is the central slogan for our country and for this body in a way is the central thought I have had in public service and hope to do—one out of many—and I look forward to that in this great body.

Thank you.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, under the previous order, the period for morning business will conclude at 11. I want to inquire if there are any Senators who wish to speak as in morning business. If so, I will extend the time to permit them to do so because the morning business period has been used for the purpose of welcoming Senator WOFFORD.

I see no Senator seeking recognition. Therefore, Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

TRIBUTE TO MR. PERRY HUBBARD

Mr. HEFLIN. Mr. President, I rise today to pay tribute to an outstanding Alabamian, a truly great lawyer, and a wonderful professor, Perry Hubbard of Tuscaloosa, AL, who recently passed away.

Perry was born in Tarrant, AL, in 1921. He attended the University of Alabama at Tuscaloosa. Upon completion of his bachelor of science degree in commerce and business administration, he enrolled in the University of Alabama School of Law where his scholarship was recognized by selection to the forerunner of the Order of the Coif, then known as the Farrah Order of Jurisprudence.

As a young lawyer he became associated with one of the truly outstanding law firms of Alabama—Lemaistre, Clement Gewin. This law firm produced a Federal fifth circuit court of appeals judge and a comptroller of the currency. Perry soon was recognized as one of the outstanding practitioners in the State, a reputation that continued throughout his career. He was a lawyer's lawyer, and many lawyers all over the State turned to him for counsel and association. His successes in the courtroom earned him recognition as a fellow of the American College of Trial Lawyers.

His attainments as an attorney and his scholarship attracted the attention of the law school of the University of Alabama where he was asked to be an adjunct professor. He taught at the law school for over 40 years and brought an unusual insight to law students, as many learned from him the nuts and bolts of the practical tools of a law practice. He is remembered by his students for his toughness and demanding expectations. Students came away from his classes with a feel of what it's

like to be a practicing, hands-on attorney.

Due to his vast knowledge of the law, Perry was asked to be a member of the advisory committee on appellate rules for both the fifth circuit court of appeals and the Alabama Supreme Court, where I had the honor and privilege to work with him. He was also a member of the Commerce Executives Club at the University of Alabama, and was a recipient of the university's Tutwiler Award for outstanding service to the university and to the State. He was also very active in his church and the YMCA, where he served several positions of leadership.

Perry will be missed dearly by his wife, his children, Perry Jr., Carolyn, Kathryn, and Edward, as well as his friends, and his students. The State of Alabama is a better place because of the generous contributions Perry Hubbard made to his fellow persons.

TRIBUTE TO DR. JAMES MARTIN

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Dr. James E. Martin, the outgoing president of Auburn University. Dr. Martin will be leaving Auburn in September 1992, after 8½ years of truly dedicated service.

Dr. Martin's tenure at Auburn is one described as progress. Upon arrival, he set lofty goals for his administration, and as he leaves, I am happy to report that the university is moving rapidly toward achieving all of them. These goals include strengthening of Auburn's academic programs and organizational structure, improved library and physical facilities, increased research activity, new programs for faculty support and development, increased quality of students and improved scholarship support, and increased private giving.

Dr. Martin was born in Vinemont, AL, on June 22, 1932. He was reared in Greensboro and graduated from Greensboro High School in 1950. He attended Auburn on a 4-year basketball scholarship, earning his Bachelor of Science degree in agricultural administration in 1954. It was at Auburn that he met his lovely wife, Ann Freeman of Birmingham. He went on to earn his Masters in agricultural economics at North Carolina State University in 1956, and his Doctorate of Philosophy in agricultural economics from Iowa State University in 1962.

Dr. Martin came to Auburn in early 1984 after serving as president of the University of Arkansas system for 4 years. He has been instrumental in creating programs to boost Auburn's academic quality. He championed the State legislature's approval in 1985 of the Eminent Scholars Program in which the State provides further funding to public universities that can raise private funds for endowed profes-

sionships for top faculty. He has also established a recruiting program for academically talented students and has worked to increase academic scholarship support. The results include Auburn's ACT being 5 points higher than national and State averages.

Dr. Martin placed emphasis on private support in achieving excellence. Auburn was able to reap over \$110 million in gifts and commitments during the Auburn Generations Fund, the most successful private fund drive in university history. With this type of funding, Dr. Martin was able to significantly improve the university's library through a major renovation and expansion project, and to enable Auburn to move toward membership in the Association of Research Libraries.

Dr. Martin's tenure has also provided rapid progress in Auburn becoming a research institution. Such research centers as the Space Power Institute and the National Center for Asphalt Technology have taken their place alongside such nationally prominent research facilities as the Alabama Agricultural Experiment Station and the veterinary medicine's renowned Scott-Richty Center.

Dr. Martin provides leadership not only to Auburn, but to higher education in general. He recently completed a 2-year term as president of the Southeastern Conference and currently serves as Alabama's representative on the executive committee of the Southern Regional Education Board. He is president of the Association of Alabama College Administrators and is active in promoting equitable higher education funding in Alabama.

The progress is continuing, as demonstrated by the new core curriculum, which will take effect next fall and is already causing high schools to improve their instructional programs to meet the new, higher standards.

The growth and improvements at Auburn University during the past 7 years have helped the university become more responsive to the needs of Alabamians while improving the quality of education. Through his work on behalf of Auburn University, Dr. Martin has helped to position Auburn to be a major player in Alabama's attempts to make dramatic economic improvements in the years to come. Dr. Martin, I want to thank you for all of your hard work and wish you well in future endeavors.

TRIBUTE TO CONGRESSMAN NATCHER

Mr. MCCONNELL. Mr. President, I rise today to recognize Congressman WILLIAM H. NATCHER of Kentucky's Second Congressional District.

Born in 1909 and raised in the city of Bowling Green, KY, Representative NATCHER has established himself as a respected and formidable statesman in

the U.S. House of Representatives through a gentlemanly manner and fierce commitment to his people.

"He reminds you of the world that once was, in which politics happens in your district and governing happens in Washington," Republican firebrand NEWT GINGRICH of Georgia once said of NATCHER.

As if to underscore this admiration, Minnesota Democrat TIMOTHY J. PENNY, an adversary of the Kentuckian on spending questions, said "Natcher is so highly regarded that people feel hesitant to vote against his bill or even change the bill for that matter."

Nearly as important to NATCHER as his perfect voting record is his persistent refusal to accept campaign contributions. The small political bills he incurs, seldom more than \$5,000 per election, he pays himself.

"Some people are spending \$1 million on House races," NATCHER once lamented. "That's wrong. It's morally wrong. I don't believe they can really represent their people if they are taking money from these groups—political action committees."

No matter who challenges him, NATCHER campaigns in his same old-fashioned manner. He shuns media events, reporters and other campaign trappings, preferring to drive through the district unaccompanied, stopping to chat with people in courthouses and Main Street stores, delivering a simple message: "I'm Bill Natcher, up there in Washington trying to do a good job for you."

Mr. President, Congressman NATCHER is not only doing a good job for his people, but for all of us.

At this time I would ask unanimous consent that the April 17, 1991, Washington Post piece on the Congressman be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 17, 1991]

CONGRESSMAN NATCHER, PRESENT ON ALL

COUNTS

(By Lois Romano)

In a world of excesses, he is a man of unheralded self-restraint. In a congressional atmosphere of frenetic fund-raising, surplus staff and haphazard attention to substance, he is a paradigm of order and control.

There is no one left on the Hill like him: "When I first got here 37 years ago, I was number 435 out of 435," says Congressman William Natcher. "I looked around the House floor and thought, 'None of you are ever going to die and none of you are ever going to retire.' Now, here I sit."

Where the gentleman from Kentucky sits is fourth from the top in the House of Representatives—in terms of both age and seniority. At 81, he is one of the most powerful members of Congress as evidenced by the \$200 billion purse he controls as chairman of the labor, health and human services and education subcommittee of the House Appropriations Committee.

He is a throwback to a time when seniority meant something, when a campaign could be

paid for with a Texaco credit card, and roll calls weren't parliamentary weapons used to keep members in Washington.

That this Democratic representative has, for nearly four decades, made a total of 16,883 votes and quorum calls, paid for every campaign out of his own pocket and rarely uses more than a third of the congressional allowance provided to hire staff, is no small feat. He is the lone member of Congress who can boast as much.

"When I talk to new members I say to them maybe it's better in the beginning to miss one vote that isn't so important," says the member who has missed not a one. "I say to them I don't advise you to do this. When you've been here as long as I have and never missed a day or a vote, it's right around your neck."

He is a sweet and courtly man, who although revered by his congressional colleagues commands little attention off the Hill. "He fits the part of the congressman from the tip of his polished black shoes to the top of his white hair," says Vic Fazio (D-Calif.), a member of the Appropriations Committee.

"The ultimate Southern politician," adds Dennis Eckart (D-Ohio). "I assure you he knows every member's name."

"He's so identified with the institution and all that's good about it," says Mary Rose Oakar (D-Ohio), who became the first woman to sit on the gym committee that Natcher chairs.

The worst that is said about the man amounts to this: He is stubbornly practical about getting his massive appropriations bill—a prime target for wild-card funding amendments—through the Congress and past the White House. No horse trader, he. This singlemindedness, it is said, makes him rather inflexible when it comes to earmarking new or controversial monies, such as abortion funding. And predictably, he manifests his time-earned eccentricities.

Hearings start at 10 a.m. sharp, adjourn at noon and restart at 2 p.m. No exceptions. "And when you're interested in a particular project," advises one staffer, "you better not leave to go to the bathroom—he stops for no one. That old man will sit there during a mark-up in 100-degree weather in his three-piece navy suit till 8 o'clock at night without moving. And you better stay real close to him or you'll lose whatever it is you want."

He has saved about 16,000 pieces of mail sent to him over the years, and refuses to relinquish them to House storage rooms. They are packaged in brown paper and piled in a closet in his office, which he proudly shows off. "I have 200 letters from presidents," he says, as well as letters from "Tony Randall, Lynda Carter and Bob Hope. . . I keep the originals." He also collects gravels, porcelain bells and replicas of White House china. His office looks like the Mount Vernon gift shop.

He has never cared to deal with the media, not during his campaigns, or his years as the controversial chairman of the District of Columbia appropriations subcommittee when he intermittently held up Metro funding, or through recent time when he has been sought out for friendly stories. He agreed to chat for this piece, but when the interview was abruptly interrupted by—what else—a roll call, Natcher refused to speak to the reporter again. "I believe we're finished," he said crisply when approached after a hearing.

Nonetheless, for an enlightening 15 minutes he shared his philosophy and thoughts about the job he loves. There is something so

poignant, even sad, about how this man defines his life, his loves, his losses, his universe, through his perfect voting record.

He says he had not realized he was voting at 100 percent until 1958, five years into his tenure, when a clerk phoned him to inform him. "Ever since then, I made up my mind I'd see where I could take it," he says.

He takes no chances with his vote. He enters the electronic voting card he carries in his wallet not once, as required, but five or six times at different stations on the House floor. "Then I ask the floor clerk to check to make sure it took," he says. "I sat there one day and watched one of my colleagues vote—and we sat and waited for the light to go on [next to his name on the board] and it never did."

He says he has had a "a thousand narrow escapes" but will only speak of one.

When his wife of 53 years passed away in January, he says, he simply accepted the fact that he would miss his first roll call vote. "I just said to myself, 'Well, this is it,'" he says with resignation. "I just made up my mind to the fact. . . ."

There was the Monday he needed to fly his "beloved Virginia" to her final resting place in Kentucky. There was the day of viewing at the funeral parlor. And finally, there was the burial itself, scheduled for a Thursday that the House was in session. "I would have missed five votes that day," he recalls with precision.

But, he says, the days seemed to break his way and the services were delayed because the six grandchildren could not make it to Kentucky in time. "But I had some help," he says, pointing skyward. "I guess it was just meant for me not to miss a vote."

"People just don't realize how extraordinarily easy it is to miss a vote," says Rep. Tom McMillen (D-Md.), who has himself made the effort to maintain a perfect voting record since his 1986 election. "You can't undervalue his accomplishment. . . . It will never be duplicated. I've already told myself I am not going to go crazy when I miss my first vote."

There are other disciplines too. Natcher still swims aggressively in the House gym several times a week. Every day the House is in session, he keeps a journal, which he has locked away somewhere. Once a year he pulls the bound books out of their sanctuary and invites a photographer to memorialize the occasion. There are 52 volumes now. "I dictate and then have it typed on the finest bond I can find," he explains. "I put it down just like it happens every day. It takes some doing. You have to be right well organized."

And he writes religiously to each of his grandchildren weekly. While all receive identical letters, he is quick to note that no one receives a copy. "I started it when they were born—wrote to welcome them," he says. "And kept on going. Every week."

A staff of "five ladies"—his words—helps him with his obsessions. "I don't have any need for an administrative assistant, a press secretary or a legislative aide," he says flatly. "We get it all done. I don't need to pay any 18 people."

What he does get done with such a low overhead is impressive. As financial puppeteer for some of the most popular and sensitive social programs around—Job Corps, student aid, Social Security administration, biomedical research—he is on the minds of many special interests. Labor groups and universities parade before him, abortion advocates wince at his name. Members beg him for pennies.

He listens to all, changes his mind for virtually none.

The job has enormous potential for power brokering. That he doesn't take a dime of campaign money, of course, greatly diminishes the input of lobbying groups who would so like to sway him. "They all come to see me and I hear them out nice," he says. "But this is the best system. My wife—she didn't like the way they did things up here, but she believed you could be in politics and do it right."

To a certain extent, Natcher has tried to preserve the purity of 1953, the year he came to Washington by virtue of a special election. To the amazement—and at times frustration—of his peers, he has never been influenced by the times. He believes he is re-elected not because he is so powerful or so smart, but because he effectively does his "duty." He still runs his own reelection campaign, driving himself from event to event. He says his last campaign cost him a little more than \$6,000.

The Washington Post files on him overflow with stories about his tight-fisted control of the D.C. appropriations subcommittee in the '60s and early '70s. He is legendary for his refusal to release millions in Metro funding—despite public pleas by President Nixon. To Natcher, it was cut and dried: If the local government was not upholding its end of the bargain to improve the highways, it didn't get the money. "It took the combined effort of the White House and the House leadership to get that money finally released," recalls Rep. Dave Obey (D-Wis.), then a junior member of the subcommittee. "If you decide to fight him, you'd better be prepared to pull out all the stops. He believes you can only have one quarterback at a time—and he's it on his committee."

In recent years, liberal House Democrats have been stymied by Natcher's refusal to loosen restrictions for federally funded abortions. (The bill's language for the past decade permits federal funding of abortions only if the mother's life is in jeopardy.) Over his reservations, the House slapped an amendment onto his bill two years ago that would have allowed abortion funding in times of rape or incest. President Bush vetoed the bill, and the House failed to override the veto.

Sources say Natcher remains adamant against introducing such funding into his bill again. But the abortion-rights Democrats still hope to persuade Natcher to give his blessing to an extended floor debate on the matter. "We want an up-or-down vote on this issue," says one such Democrat who did not want to be identified. "But to his practical mind, it's counterproductive to getting his bill passed. Those of his generation simply fail to acknowledge there might be some value in simply making a point."

On other issues of a contemporary nature, however, members say Natcher tries. "I've been badgering him on [funding for] breast cancer research," says Oaker, "and he's really evidenced a desire to learn about the issue."

Says one member of the Appropriations Committee: "You're not going to see him poring over the newest studies on this or that, but he does listen. I mean, he wasn't the last member of the Congress to realize the importance of AIDS research funding."

During the brief interview, Natcher alludes to the time when he might quit the good fight. He says the bells and china in his office would then go to his lone granddaughter. And the gavels and other masculine mementos would be given to the grandsons. He says that upon his retirement, he would also release his prized journals.

And the question is posed: Is he planning to cast his last vote any time soon?

"Oh no, no," he says, quite astonished by the question. "No plans. No plans at all."

And then, the bell tolls once again for Bill Natcher.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,245th day that Terry Anderson has been held captive in Lebanon.

In 1979 and 1980, 52 Americans were held hostage in Teheran. For 444 days they languished. Five minutes after President Reagan was sworn in, they were released. Through the past month we have read allegations about a hostage deal in 1980 that prolonged the captivity of Americans held in Iran. These allegations are important, if true. But significantly, they remind us of a painful truth: that there are other Americans who are today hostages. Men who have lost not hundreds but thousands of days of celebrating life with their families and loved ones. Terry Anderson—the longest held—has spent more than 6 years as a hostage in Lebanon.

Mr. President, I ask that as my colleagues recall the agony that consumed our Nation in 1980, they realize that a full decade later, six Americans remain hostage in Lebanon. And I call upon the administration to give the highest priority to securing their release.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

CONSUMER PROTECTION AGAINST PRICE-FIXING ACT

The PRESIDING OFFICER. The clerk will report the pending business. The legislative clerk read as follows: A bill (S. 429) to amend the Sherman Act regarding retail competition.

The Senate resumed consideration of the bill.

Pending:
Brown amendment No. 90, in the nature of a substitute.

The PRESIDING OFFICER. Under the previous order the Senator from South Carolina is recognized to offer an amendment.

The Senator from Ohio.

TIME LIMITATION AGREEMENT—SENATE JOINT RESOLUTION 137

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the statutory time limitation on Senate Joint Resolution 137 be reduced to 1 hour with all other provisions of the Budget Act governing the resolution consider-

ation remaining in effect. This has been cleared with the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUSPENSION OF CERTAIN PROVISIONS OF LAW

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 81, Senate Joint Resolution 137.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 137) suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. SASSER. Mr. President, I rise today to urge a vote against Senate Joint Resolution 137, which is a resolution to suspend the enforcement provisions of the Gramm-Rudman-Hollings law. The Senate Budget Committee earlier this week, on May 7, by a unanimous vote of 21 to 0, voted to report this resolution with an unfavorable recommendation.

As my colleagues are aware, under the provisions of the Budget Act, the U.S. Senate must approve or disapprove this joint resolution. The law spells out the content of the joint resolution. If this joint resolution is ultimately enacted, it will suspend the Gramm-Rudman-Hollings system of reports and orders for fiscal years 1991 and 1992. It will also suspend points of order on spending and revenue bills for the same period. All Gramm-Rudman-Hollings procedures would be automatically then put back in place in fiscal year 1993.

Now the question comes, why are we considering this joint resolution? Why are we being asked to vote on a joint resolution that suspends the enforcement provisions that keep in place the summit agreement that we so recently adopted last year?

Well, the answer is a very simple one, Mr. President. We are in a recession and the law provides that the Gramm-Rudman-Hollings law may be sus-

pended during a severe economic downturn.

Since the recession began, the economy has deteriorated sharply. More than 8 million Americans who want to work are out of work today, and the unemployment rate stands at 6.6 percent of the total work force. While there was a glimmer of encouraging news, the national unemployment rate did fall by two-tenths of a percent in April—a half-million Americans—stood in the unemployment lines for the first time in the third week of April. So while the unemployment rate might be going down slightly, perhaps because of a statistical quirk, we still are increasing at the rate of a half-million people.

The recession is now in its 11th month. The average recession lasts for 11 months, so it does appear that the current recession will be longer than the average of the recessions in the post-World War II period.

The human suffering in the current recession is considerable, it is my sad duty to report. As I said, 8.3 million of our countrymen are now unemployed; 1.4 million Americans lost their jobs since last July when the recession first started. Indeed, several sectors of the economy have been devastated by the recession. The construction industry, for example, lost another 20,000 jobs in April. The construction industry as a whole has lost more than a half-million jobs since last May. This is just one industry.

And thus far the signs of a robust economic recovery are really nowhere to be seen.

Automobile sales remain severely depressed. Both General Motors and the Ford Motor Co. reported sales declines of more than 20 percent for the last 10 days of April compared to last year's levels. And the Big 3 auto companies are projecting a 1991 loss of \$2.7 billion.

So despite the short-lived surge of consumer confidence after the completion of the war in the Middle East, at least the completion of the military aspects of the war in the Middle East, the Federal Reserve Board's April Beige Book indicates that retail sales remain sluggish and that there has been no sustained pickup since the conclusion of the war in the Middle East. People simply cannot spend money that they do not have.

In short, Mr. President, the bloom is off the rose. The recession has outlived the early assurances that it would be a short and shallow recession. This, indeed, is not a happy picture that I report to the Senate today.

But having said all of this, I do not believe that we should suspend Gramm-Rudman-Hollings at this time. And I want to emphasize that caveat—at this time.

When we entered into this budget agreement last year, everyone agreed that we had to reduce deficits over the long haul to ensure long-term eco-

nomical growth. No one believes that we gain by continuing the ill-advised borrow-and-spend policies of the past decade that has tripled, or more than tripled, the national debt.

Moreover, we may not be able to import capital from Japan and from Germany as we have in the past in order to build an economic recovery. Germany needs its capital for its reunification efforts and the Japanese are increasingly using their own capital for domestic purposes.

Also, this agreement permits the Federal Reserve to undertake a positive monetary policy and to follow a lower interest rate policy to spur, hopefully, economic expansion.

I will be frank to say that the Fed has not always been ahead of the curve in this recession. During the 6 months leading up to the recession, the Fed did not lower its benchmark interest rates at all and has been forced to play catchup ever since.

But if we abandon the budget agreement now, the Fed would be unlikely to lower interest rates further—a step that is still needed to ease the pain of this recession. The financial markets would almost certainly react adversely, pushing up long-term rates and sending industries like the housing sector back into a tailspin.

So for the moment, we should stick with the fiscal discipline of Gramm-Rudman-Hollings.

But let me say to my colleagues that this does not mean that we should turn a blind eye to the human pain and the human suffering that is being caused by this economic recession that has gone on now for 11 months.

We must develop in short order anti-recession policies to deal with the unemployment situation we are now encountering, and we should do it within the framework of the Budget Act.

The current unemployment situation should be a matter of grave national concern. We do have a very faulty unemployment system that may contribute to the severity and the length of this recession.

The distinguished chairman of the Joint Economic Committee, Senator SARBANES of Maryland, just 3 weeks ago gave our colleagues a very learned and thoughtful and perceptive exposition of the problems and flaws in the present unemployment insurance system.

Presently, less than half of the unemployed are receiving unemployment benefits. During past recessions, that share has been typically above 50 percent and has approached 75 percent, as the distinguished chairman of the Joint Economic Committee pointed out to us a few weeks ago.

During the first 3 months of this year, however, 750,000 of our fellow countrymen, three-quarters of 1 million Americans, exhausted their unemployment benefits. They could not re-

ceive extended benefits because so few States have been able to activate the so-called trigger of extended unemployment benefits.

Our unemployment insurance system simply must be repaired to ensure a smooth recovery for workers who paid into the unemployment system. They need the sustenance that they are entitled to. At the same time, if these unemployed workers are receiving their unemployment compensation, this will stimulate the economy and, hopefully, will diminish the effect of the recession.

We do have a procedure in the Budget Act for dealing with this problem. It provides for emergency legislation that will not count against the ceilings on spending or bring on automatic across-the-board cuts. Antirecession measures, especially those dealing with the unemployment situation, should be in the making right now. We simply cannot stand by as millions of American workers and their families lose their jobs and exhaust their unemployment benefits. These workers and their families deserve our concern and they deserve our assistance in this recession just as they have had it in past recessions since World War II. This budget law was never intended to tie our hands in dealing with the economic misfortune affecting these workers.

So, Mr. President, I will vote to maintain the Gramm-Rudman-Hollings law today. But I do not intend to stand idly by and watch this recession grow more severe and not take positive action to help the millions of American men, women, and their families who are seeing their American dream turn into an economic nightmare.

I see the distinguished ranking member of the Budget Committee has arrived on the floor.

I yield the floor at this time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me first say to my friend and the chairman, I could not get here any sooner because we were making up the energy bill in the Energy Committee, and we just started the very interesting subject of mandatory fleet alternative engines, part of any new energy policy we are going to be able to put together. I hope we can complete this matter rather quickly.

Might I just ask the chairman, is it contemplated we would have a rollcall vote or voice vote on this resolution?

Mr. SASSER. I think that matter has not been determined, but I think there is a strong possibility of a voice vote. I am so advised.

Mr. DOMENICI. I thank the chairman.

I do not have a lot to say, so I yield myself for this opening round, 7 minutes. When I have done that, if the Chair will advise me, Mr. President, I

may, in fact, be finished with that amount of discussion.

This is the second time that the issue of setting aside what I call the Budget Enforcement Act, which was hammered out in last fall's summit, has come to the floor. We were here in January because at that point the triggering mechanism, a forecast of two quarters of economic downturn by the administration, had taken place. That is one of the tests in this new law.

I think, in a couple of more months we may need to do this again. Let us hope we are out of this recession by then.

We said in January that we had reviewed fiscal policy, and we had reviewed the economic situation, and the question was a very simple one. Is it time to jettison the fiscal discipline that came with the multiyear economic summit—the mandatory targets to be enforced by across-the-board cuts, the pay-as-you-go for the entitlement programs if you increase or produce new programs? Should all of that go because we are in a recession?

Frankly, the answer then was, no; do not throw it all away. The resolution that was before us was defeated by a 97-to-2 vote on the floor. I submit things have not changed. The answer should still be, no, do not throw away the discipline. What would you substitute for it and what could you expect if you throw away the discipline?

We should keep the enforcement for as long as we can. I am hopeful we will keep it for the entire 5 years that was determined by the congressional bipartisan leadership and the President.

Frankly, it seems to me that nothing would be worse for the American economy, for the future growth of that economy, and for our people in terms of jobs and prosperity, than to open up a free-for-all, in the Congress of the United States, with all kinds of new spending and/or tax proposals, with no real caps, and with no real enforcement mechanism. The signal that we were getting rid of all that would do more harm, in my opinion, to the prospects for economic recovery and future growth than almost anything else we could do today.

This is an important vote because we surely do not want to do that.

My final observation has to do with what is probably burdening the American economy more than anything else. It is debt—private debt, corporate debt, and Government debt. There are other things that are keeping the American economy from getting back into a growth mode, but those are important and big ones.

Frankly, if we take out the enforcement mechanisms that have kept significant multiple year discipline in the fiscal policy, what can we expect? Surely, we can not expect less debt. I think we would expect more debt because, clearly, we will not get smaller

deficits. We will get bigger deficits that will create more debt, less energy in the American economy, and more difficulty getting out of the recession and putting the economy on a sustained growth pattern.

For all these reasons—and obviously many more—I think we should keep the budget enforcement process in place. I believe the multiple year enforcement mechanisms that were built in at the economic summit—the caps with across-the-board cuts if you exceed them, the pay-as-you-go provisions with the sequester if you exceed them at the end of the year—are going to begin to pinch this year. There is just not going to be new money for program increases unless we reduce or get rid of old programs. That is going to begin.

Next year it will pinch a little more. And that is precisely what we need—precisely what the American people expect. They do not think we ought to spend more than we take in each year and leave all the programs alone and let them all increase. With these caps and this pay-as-you-go approach, there is not going to be room for all of that.

You are either going to have to reduce programs if you want to increase other programs, or you are going to have to eliminate programs if you want other programs to grow dramatically. I think that this is a good process for a while. I only hope we really take it seriously.

I am going to be part of whatever group of Senators want to enforce it to the letter, because a deal is a deal. We made it with ourselves; we made it with the President. I think it is a pretty good deal. In fact, I think, looking at it now, we probably could not find a better way to enforce fiscal restraint and see that it really is met than through this approach.

Congress might not like it in its third or fourth year. But I suspect it is going to turn out to be a rather novel approach to keeping Government spending under control. We might, indeed, want to do it for more years when the provisions of this agreement are finished, because something like it is necessary for future years otherwise, we will never get things under control.

I yield the floor and reserve whatever time I have.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. SASSER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 17½ minutes.

Mr. SASSER. Mr. President, I yield myself 3 minutes.

Mr. President, today I am urging our colleagues to reject this resolution suspending the Gramm-Rudman-Hollings law. I am urging them to do that because at this time I feel it is necessary to keep the budget summit agreement

we passed and enacted into law last year into place. We wish to keep that into place so we can arrest the increase in the deficit and give the Federal Reserve Board some breathing room so they may continue to ease with regard to monetary policy; as I said earlier, give this economy some oxygen so it may grow and come out of this recession.

I remind my colleagues that this budget summit agreement was enacted really for the purpose of reducing the deficit, and it was enacted for the purpose of trying to put an end to the borrow and spend policy that had dominated the past decade and gotten us into the position now. It was not adopted for the purpose of tying the hands of this Congress or tying the hands of this Government in dealing with serious domestic difficulties. It was not adopted for the purpose of trying to alleviate what are perceived by a majority of the Members of the Congress, in concert with the President, to be domestic concerns that need to be satisfied.

I indicated in the Budget Committee the other day, as we debated and deliberated on the question of whether or not to suspend the Gramm-Rudman-Hollings resolution this year, that I was going to oppose it. But I also indicated at that time, if we are going to continue down the road of limiting the flexibility of the budget summit agreement we adopted last year to deal with the problems we find ourselves confronted with from time to time here in the Congress, I was going to find this budget summit agreement less attractive and we might very well find ourselves going down a road where we seriously consider moving away from it and, perhaps, in the final analysis, rejecting it.

I say that to my colleagues today to state specifically what my view is. I voted for, fought for, helped negotiate this budget summit agreement. I think it could be very helpful in reducing the deficit—if it is going to be subverted into an instrument of denying the will of this Congress by a majority vote to deal with the needs of this country while paying for such legislation at the same time, whether it be by closing revenue loopholes, whether it be by abolishing other programs and using the proceeds to fund or expand other programs, or whether it even be a matter of increasing revenues, I think under the terms of the budget summit agreement the Congress was entitled to do that.

If we are going to move down the track of trying to narrow the agreement, trying to take partisan advantage here at the very outset in the first year of its operation, then I think it is going to become an empty vessel, indeed, and we may very well find this budget summit agreement will have outlived its usefulness.

That reflects my view and I suspect it reflects the view of a number of other Senators, at least on my side of the aisle, and perhaps even the view of some of the other chairmen on my side of the aisle.

As of now, I think it important we vote down the resolution to suspend Gramm-Rudman-Hollings. I think it is important to keep the budget summit agreement in effect. But if we are going to find later on that this prevents us from dealing with the dire economic emergency the country may find itself in, then I think we have a different kettle of fish, indeed.

Mr. DOMENICI. Mr. President, how much time does the Senator from New Mexico have?

The PRESIDING OFFICER (Mr. GRAMM). The Senator from New Mexico has 22 minutes and 45 seconds.

Mr. DOMENICI. I yield 5 minutes to the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. I thank the distinguished Senator from New Mexico for yielding.

Mr. President, I would like to make a few simple points. First of all, I think if you look back at the postwar history of America and look at the recessions we have had and look at the fiscal stimulus we have applied, in almost every case the fiscal policy we have implemented has gone into effect after the recession was over and thus contributed to the subsequent inflation and dislocation of the economy.

I think those who have looked at our postwar experience have concluded fiscal policy is a very dull tool. It is often popular with politicians because spending money is popular. But as an effective policy tool to try to offset recessions and to stimulate the economy, I would argue fiscal policy in the postwar period has been pretty ineffective and probably counterproductive.

Second, to the degree that fiscal policy, funded by deficit spending, was ever a curative medicine, it is a medicine we have taken in expansions, in contractions, in recessions, and in inflations. If deficit spending ever had any curative powers, those powers have long ago been lost.

So I want to congratulate the distinguished chairman of the Budget Committee and ranking member for their leadership. I think it would be imprudent to waive the Gramm-Rudman process, to eliminate the binding constraints we put in place on spending. I think whatever we would gain in stimulating the economy by expanding the deficit, we would lose in triggering a financial reaction, sending interest rates up and creating financial panic.

So I urge my colleagues to support the position of the Budget Committee and to reject the motion waiving Gramm-Rudman.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from New Mexico.

Mr. DOMENICI. I yield myself 1 minute.

Mr. President, I thank the Senator from Texas for his remarks. I agree wholeheartedly it would be absolutely foolish to lift the caps and permit us to proceed with some kind of new fiscal policy in an effort to help with this recession.

I think the chances of that doing good for this economy are very small as compared with the harm that would come when we once again are in a free-for-all with reference to enforcement of any kind of spending. Debate would just be the confrontational type between the President and the Congress, and I think the results would be much more devastating than any good, that would come from spending more.

I think we ought to complete this and get on with the conference and see where we are. I feel confident that this 4-year master plan is probably about as good as Congress and the President can adopt, and we ought not destroy it now.

If we suspend the enforcement provisions, they will be gone for over a year, almost 2 years. I think most of those who are looking at the budget agreement are marveling that Congress and the President would agree to the kind of fiscal policy that they have. This has not occurred before, and it ought to be more than the event that is before us that would throw enforcement to the winds and destroy the fiscal discipline that it creates.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield myself 2 minutes.

Mr. President, I see that the distinguished junior Senator from Texas has left the floor. I am sorry he has. I wanted to respond to one statement he made, and that is the fiscal policy funded by deficit spending has never had a curative effect as far as a recession is concerned.

I would differ with that, and I would point out the most recent example is the severe economic decline of 1982. We plunged into the most severe economic contraction since the Great Depression of the 1930's. Just by coincidence, the administration then in power embarked on the largest peacetime deficit spending program in the history of the United States, rivaled only by the deficit spending program that the Government embarked on in preparing for and fighting World War II.

Many have said it was really World War II and the spending that occurred there which brought this country out of the Great Depression of the 1930's. Perhaps you could argue that the massive—I would say irresponsible—deficit

spending that occurred during the 1980's was what was responsible for bringing us out of the worst economic downturn in almost half a century.

Some are proud of saying that that led to the longest period of economic expansion in the history of this country. That has been repeated so many times it has become conventional wisdom. As a matter of fact, that is totally inaccurate. The longest period of economic expansion in the history of this country began very early in the 1960's and continued until the end of that decade, if memory serves me correctly.

So there is a case to be made for fiscal policy stimulating the economy. There is a case to be made for Government programs that can have a stimulative effect on the economy, while at the same time relieving the suffering of those who are jobless as a result of an economic contraction over which they have no control.

It certainly must be done in a responsible manner. It should be done not through deficit spending. It should be done through a pay-as-you-go approach, as we provided for in the budget summit agreement.

I yield myself an additional 30 seconds, Mr. President.

We may find that this Chamber will be entertaining such legislation in the not-too-distant future if this economy does not improve. The administration was, we now know, approximately 4 months overdue in announcing that we were, indeed, in a recession. At the time it was announced by the Chairman of the Council of Economic Advisers, he also announced that the recovery was just a month or two away.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SASSER. Mr. President, I yield myself an additional 30 seconds.

We now find that this recession has gone on for 11 months, and it really gives no substantial signs of abating.

So I am quite confident that unless we see evidence of an upturn in the not-too-distant future, we are going to be contemplating some effort to alleviate the human suffering caused by the recession and trying to take some steps to resuscitate this economy.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I ask unanimous consent that I be allowed an additional 5 minutes in addition to

the present time pending, and that it be allocated to the distinguished Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Tennessee is now controlling 11 minutes; 5 minutes have been allocated to the Senator from Iowa.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank my colleague, the distinguished chairman, and the Senator from New Mexico, the ranking member, Mr. DOMENICI, for giving me time.

Mr. President, a little more than 3 months ago, I rose in support of exactly the same type of resolution before us today, to suspend Gramm-Rudman-Hollings deficit targets.

Mr. President, the economic reports for the first months of this year have not gotten any better. In the last quarter of 1990, the economy contracted 1.6 percent. In the first quarter of this year, that decline steeped to 2.8 percent.

Fortunately, in anticipation of just such a contingency, the drafters of the 1990 Budget Enforcement Act provided for the option we are considering today. I recommend we take advantage of this opportunity and vote to suspend Gramm-Rudman-Hollings.

We need to recognize that the condition of the economy is bad enough to rate the lifting of these requirements. After all, this was the purpose of including this escape clause in the law, and we should use it. Why, in this situation that cries out for suspension, do we fail to recognize the uselessness of a set of deficit reduction requirements that do not work and, in fact, contribute to the dislocation wrought by the current recession?

Do my colleagues believe we are not in a recession? Does anyone believe we are not? Even the President admits we are in a recession. He has done so for the last couple of months. Should we assume we are going to pull out of this recession before we have time to adopt and implement measures to compensate American workers and families for the negative effects of a recession that have already happened?

Maybe that argument could have been made back in January or February. It was. I did not believe it then. I do not believe it today. The President's economic adviser was saying that the economy would bottom out by late spring. Late spring is here. The economy has not improved. During the week ending April 20, applications for jobless benefits hit the half million mark. There are now more than 8 million Americans out of work in this country. Each one of these unemployed workers represents a personal tragedy: factories idle, communities devastated, and families impoverished. How much more are we willing to countenance? How long can we ask the American people to be patient?

I remind this body that Herbert Hoover, when faced with the same situation, prescribed patience as well. Did not history prove Hoover wrong? Are we to relearn the lessons of history, or is it going to be déjà vu all over again?

I have made no secret of my opposition to Gramm-Rudman-Hollings both in its specifics and its principles. I never supported it in the beginning, and I have never supported it since. I can understand, although I do not agree with those who support in times of economic growth this politically attractive but practically useless approach to budgeting. I am disappointed that so many people are buying the fact that we ought to continue Gramm-Rudman in times of recession.

The problem with laws like Gramm-Rudman and the recent budget agreement is that we have tied ourselves into knots. Consequently, especially in times of recession, adhering to Gramm-Rudman-Hollings is like the old-fashioned medical practice of bleeding a patient who is seriously ill. The treatment only makes the patient worse off.

The fact is that the deficit and recession are two different problems, each of which has to be solved in its own separate way and in its own separate time. The Government's obligation to provide unemployment compensation and the whole spectrum of social services actually increases during the economic downturns.

The administration was far more interested, in the 1980's, in shifting spending to defense than in reducing the deficit, and, as a result, the national deficit exploded.

Now that we are in a recession that the President acknowledges but is willing to do nothing about, it is time Congress takes the responsibility. For years we have been told, "Government is the problem." As my friends here on the floor know, I do not usually agree with Mr. Reagan, but in this case I will grant the rare exception. Yes, while Mr. Reagan was President, Government was the problem. After 10 years of being misled that the taxpayer can have something for nothing and that by making the rich richer and the poor poorer that somehow the poor can join in the prosperity of the rich, now we are facing some of the most profound public policy crises in our history.

Government can also provide some solutions. It is not enough—in fact it is downright irresponsible—for us to throw up our hands in this moment of economic crisis and do nothing. The time has come to face the music. The time has come for us to stand up in this body and say to the President that the "emperor has no clothes." The policies of this and the last administration did not work, and will not work.

I believe that suspension of Gramm-Rudman-Hollings can set the stage for an American revival. Senator RIEGLE has begun to prepare a package of

stimulative measures that may make sense in this time of recession. Maybe now if we suspend Gramm-Rudman-Hollings we will finally have the opportunity to prove to the American public that by—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SASSER. Mr. President, I ask unanimous consent to yield to the Senator 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I appreciate that.

Maybe we can prove to the American public that by investing in nutrition, in education, unemployment compensation, job training programs, we actually save this country money by making sure that we become more productive in the future.

Thousands of children, Mr. President, who are qualified for and have applied for assistance under the WIC and Head Start Programs are denied service for lack of funding. Supplying health care and nutrition to pregnant mothers and infant children is not only morally correct, Mr. President, it is good, common sense. Healthy mothers and babies are less of a drain on the health care system. Healthy children mean less spending on medical care. Children that are given an educational boost are ultimately better students and more productive citizens. They will pay more in taxes and they will need less Government assistance. These programs have been proven time and again to be effective. With them, in the long term, we will need to spend less. It does not make sense that they be left wanting for funds. That is why I question the sensibility of Gramm-Rudman-Hollings. It forces the Congress to only look at 1 year at a time. We must look at the long term.

Someone is going to have the responsibility some day, to pick up the pieces of lives shattered by joblessness, a lack of health care and nutrition. That someone is us. We either do it now or do it later when it will be much more difficult and expensive. After all, it is much more expensive to provide long-term care than prenatal care. It is much more difficult and expensive to fund prisons and drug rehabilitation programs than it is to see that millions of Americans in poverty don't have a reason to anesthetize themselves every day to escape from the harsh realities of joblessness, homelessness, and the lack of a bright future.

Mr. President, what is happening right now with Gramm-Rudman makes no sense whatsoever. In this economic crisis, it is time to say no more Gramm-Rudman-Hollings, it is time to recognize that we have to start investing in the future productivity of this country, and under Gramm-Rudman-Hollings we cannot do it because our hands are tied. It was bad news when it was enacted; it is worse news now.

So I am hopeful that we can at least have a vote on this. Gramm-Rudman-Hollings in this time is not in the best interests of this country.

So I ask my colleagues to join me in proving wrong the Orwellian argument that democracy can well be served when its representatives operate with both hands tied behind their backs. That is exactly what we are doing right now. I ask anyone here to sit in the chair that I do on appropriations that deals with health and human services, education, and job training and look at the misery and suffering going on around this country and then say that we cannot do anything about it because of Gramm-Rudman-Hollings. It is time to get rid of it.

Thank you, Mr. President.

ORDER OF PROCEDURE

Mr. SASSER. Mr. President, I ask unanimous consent that at 2 p.m. today, without intervening action or debate, the Senate proceed to vote on Senate Joint Resolution 137, notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SASSER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I ask the chairman—we have no other Senators seeking recognition on our side—does he have any more need for time on his side?

Mr. SASSER. Yes. Let me say to my friend from New Mexico that the distinguished Senator from Wisconsin, Mr. KOHL, I am advised, is on his way to the floor.

Mr. DOMENICI. If we were to agree now on the time for Senator KOHL, would that be all that we would have left on the other side? In which case I would be prepared to yield back all of my time.

Mr. SASSER. I know of no other Senator on our side other than Senator KOHL who wishes to speak. May I inquire of the Chair how much time is remaining to our side?

The PRESIDING OFFICER. The Senator from Tennessee controls 6 minutes, the Senator from New Mexico, 18 minutes, 7 seconds.

Mr. DOMENICI. Mr. President, I yield whatever time I use.

Mr. President, I suggest that the Senator from New Mexico would be willing to yield back the remainder of his time if the chairman at some point would propose that all time be yielded back with the exception of that required for Senator KOHL. I am not asking to do that now. I think that would permit both of us to attend other committee hearings.

Mr. SASSER. It would. I know the distinguished Senator from New Mex-

ico is anxious to get back to the Energy Committee. I am advised that Senator WELLSTONE also might wish to speak. May I inquire of the Senator from Minnesota how long he might desire to speak?

Mr. WELLSTONE. The Senator from Minnesota will take just a few minutes. It will be off the top of my head with no presently prepared remarks. I have a couple minutes worth of remarks.

Mr. SASSER. We only have 6 minutes left. The Senator from Wisconsin had asked for 5. I yield the Senator from Minnesota 2 minutes at this time.

Mr. WELLSTONE. I want the Senator from Tennessee to know that to ask a teacher to speak 2 minutes is a pretty difficult task, but I will give it my best.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

Let me echo the words and the sentiments of the Senator from Iowa. It does seem to be that we have to face up to some economic realities in our country. The fact of the matter is we are in a certified recession, and it has been that way for some time. There are many, many citizens in this country that are out of work, and there are many citizens that are working but only part time. There is a tremendous amount of economic pain. I am committed to deficit reduction. I think that must be a part of what we are about in terms of any kind of legitimate and credible economic policy.

But it is kind of difficult to talk about Gramm-Rudman in isolation and the deficit in isolation to 1 out of every 8 children that are hungry in this country today. It is kind of difficult to talk about deficit reduction to people who are homeless. It is kind of difficult to talk about deficit reduction to people who are unemployed. It is kind of difficult to talk about deficit reduction alone to small businesses who are struggling, who are losing their businesses, family farmers who are being thrown off the land, children that are not receiving an adequate education.

I maintain—and I want to make this real clear, Mr. President—that I believe the reason we are going to have a recorded vote—and I want to speak for that recorded vote on the waiving of Gramm-Rudman—is that this is yet but one instrument of policy that we might want to consider as we deal with this not so unusual economic time.

It might be that Senators do not want to waive Gramm-Rudman. Fine. Others may believe that these are extraordinary economic times, that many people are suffering, and that we might have to waive Gramm-Rudman. Either way, I think it is very important that the Senate of the United States of America go on record. And I, again, simply support the remarks of

my colleague, the Senator from Iowa. I am pleased that we are going to have a recorded vote.

Mr. DOMENICI. Mr. President, I understand our chairman wants to move with a unanimous consent on another matter. I am going to accommodate very quickly, but I yield myself 2 minutes, and then I will be finished.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, it would be very interesting to ask the American people if they really believe that it would be better for the United States of America and their futures to have a budget in place for the next 4 years that has caps that must be enforced and says to Congress, do not overspend; do whatever you have to do for us within these limits, and do not spend more in an effort to try to help us. It would be interesting to ask them if that is how they feel, or if they feel we ought to wave all these caps, we ought not put in any discipline, and just trust the Congress to cure the recession and make their lives better.

I would be willing, if we want a real vote, to let the people vote on that one. I will speculate that they would come down four to one against the view that it sounds wonderful for Congress to say we ought not to have any discipline because we want to help you; we want to pass laws that will put you to work. We want to pass laws that will help you get out of whatever problem you have.

I do not believe we can do that. We do not know how. We will do it wrong. And I believe the American people would opt by huge percentages, to stay on a fiscal policy path that has some discipline in it and that makes Congress respond to stipulated and set amounts of money, and no more, each year. They would agree to this rather than say fix everything for us, take this discipline off, you can cure our problems and end this recession.

Having said that, I am prepared shortly, to yield back the remainder of the time on this resolution, as soon as the chairman makes his proposal.

EMERGENCY SUPPLEMENTAL PERSIAN GULF REFUGEE ASSISTANCE ACT OF 1991

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2122, the Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991 now at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

A bill (H.R. 2122) to authorize emergency humanitarian assistance for fiscal year 1991 for Iraqi refugees and other persons in and around Iraq who are displaced as a result of the Persian Gulf conflict.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understood that this matter had been totally cleared, but I have just received notice from our Cloakroom that they need a minute or so.

I have just heard that everything is OK now. I have no objection.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 2122) was ordered to a third reading, was read the third time, and passed.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

Mr. SASSER. The motion to lay on the table was agreed to.

SUSPENSION OF CERTAIN PROVISIONS OF LAW

The Senate continued with the consideration of the joint resolution.

Mr. SASSER. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Tennessee controls 4 minutes 6 seconds. The Senator from New Mexico, 14 minutes 23 seconds.

Mr. SASSER. Is the Senator from New Mexico agreeable to yielding back all of his time with the stipulation that we reserve 4 minutes 30 seconds of my remaining time for the Senator from Wisconsin? I see the distinguished Senator from Wisconsin on the floor, Mr. President.

Mr. DOMENICI. Might I say to the chairman—I see the Senator is on the floor—if he wants a couple of additional minutes beyond that 4 minutes 30 seconds, I will give him 2 minutes off of our side and let the rest go as proposed.

Mr. SASSER. Mr. President, may I inquire of the distinguished Senator from Wisconsin, is 6½ minutes sufficient to deliver his message?

Mr. KOHL. Yes.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senator from Wisconsin consume the remainder of my time and be yielded 2 minutes from the time of the distinguished Senator from New Mexico; whereupon, all time will have elapsed.

The PRESIDING OFFICER. Without objection.

The Senator from Wisconsin is recognized for 5 minutes 44 seconds.

Mr. KOHL. Mr. President, for the second time this year, I rise in strong opposition to waiving the Gramm-Rudman-Hollings deficit reduction enforcement procedures. There is no doubt the country is in a recession right now.

There is no doubt that that recession has lasted longer, and is deeper, than anyone expected. And there is no doubt that Congress could do many things to boost our economy from its current negative growth into strong, sustained recovery.

However, suspending the budget discipline that we all worked so hard to enact last year is not one of those things. The uncertainty of the current economic downturn—and the too slow growth recovery forecast by even the most optimistic economists—are the result of the last decade of deficit and debt. Piling more debt on can do nothing but exacerbate an already bad situation.

Let me elaborate. Our enormous national debt has almost quadrupled—to over \$3.5 trillion—since 1980. This debt represents money literally stolen from the private sector—stolen from economic growth, from business entrepreneurs, and from workers. The national debt represents capital that is not there for private investment in business, children, higher wages, health care—the list goes on and on.

At present, our monetary policy is captive to the need to finance this overwhelming debt. The Federal Reserve can't take interest rates too low for fear the Treasury will be unable to sell its bonds. By keeping interest rates high, the debt directly discourages the investment this country so sorely needs.

I also oppose this suspension of budget discipline because I believe it sends a dangerous message to the economy. It says: Congress cannot—cannot—stick to any sort of budget discipline. It says to me—and I believe to millions of our constituents—that this Government is not serious about living within our means.

With our deficit next year approaching \$300 billion, that is a dangerous message. How long can we continue to convince foreign creditors that this Nation is a good investment if we continue to ignore a bill that large? More importantly, how long can we keep the confidence of the American people if we continue to mortgage their—and their children's—future.

The deficit is a tax—a regressive, unproductive tax. By pushing up interest rates, it is a tax on anyone who holds a mortgage, a home equity loan, a student loan, a business loan. By fueling inflation, it is a tax on wage earners and pensioners on fixed incomes. By slowing growth, it is a tax on young people looking for work and older people hoping to be able to retire. It is a tax we cannot and should not tolerate.

I urge my colleagues to oppose this tax by opposing this suspension.

Mr. DURENBERGER. Mr. President, a few weeks ago we approved a budget that will raise the national debt to nearly \$5 trillion over the next 4 years. No Member of this body can take pride

in this debt we are passing on to our children and our grandchildren.

But at least under the budget rules that are currently in place, we can exercise some fiscal discipline, some fiscal restraint. We can make certain that the national debt will not grow to \$6 billion or \$7 billion or \$8 billion over the next few years. However, if we adopt this resolution, all fiscal restraint will be abandoned, all constraints on spending will be lifted.

Mr. President, the decision we make here today will last far beyond today's economic slowdown. If we suspend the budget rules, the suspension period will last until the first fiscal year beginning at least 12 months after the resolution is enacted. Therefore, our action today will suspend fiscal discipline until October 1992, far beyond the life of the current recession.

Mr. President, I believe this resolution is ill-conceived and ill-timed. Just this morning, there was a report suggesting that the slump in housing appears to have bottomed out. In the Midwest, in the South, in the West, residential real estate has been on an upturn. Even in the overbuilt Northeast, there are signs of real improvement.

And one of the reasons that housing appears on the upturn is because interest rates have been coming down. But if we adopt this resolution, if we decide that the Government can spend our children's and our grandchildren's money without a second thought, interest rates will quickly rise, investors will lose confidence in the Government's ability to hold off spending, and the net result will be a worse recession along with new inflation.

Mr. President, we should reject this resolution because it will do great harm, in both the short run and in the long run, to the American economy. We must maintain our commitment to fiscal restraint and economic responsibility.

Mr. AKAKA. Mr. President, today we are again being asked to decide on whether or not to suspend the enforcement provisions of last year's budget agreement in order to address the ongoing recession.

In January, the last time we faced this issue, our attention and the attention of most Americans was focused on the war in the Persian Gulf. Over the past 5 months, events overseas have changed. Some for the better and some for the worse. We rejoice in the return of our soldiers. But we now must be concerned about the fate of the Kurds and the plight of the people of Bangladesh. We must also pay attention to events within the Soviet Union and we must respond to the starvation in Africa.

Although our focus has shifted since January, the fact that our country is in a recession has not. More and more Americans are losing their jobs. Some

of our financial institutions and manufacturing industries are facing difficulties. In my own State of Hawaii, our major industry, tourism, has suffered greatly. We must remember that a recession exacts its cost in human suffering and despair.

I am voting against suspending the budget agreement today because I believe that the fiscal discipline it requires will help end the current recession. I believe that a vote against suspension will signal our resolve to significantly reduce this Government's budget deficit and to reverse the borrow and spend policies of the 1980's significantly. This resolve should facilitate the reduction of interest rates, which, in turn, will stimulate the economy and create new opportunities.

My vote is being cast in with the recognition that there are some signs that the economy is turning around. I say this because I do not believe that last year's budget agreement was designed to restrict Congress in its ability to address the needs of America. I will not, and I do not believe the Senate will forgo the responsibility to ease the human suffering of a recession. So, if the course we are choosing today does not work, I want the people of Hawaii and all Americans to know that I will take action that will.

Mr. RIEGLE. Mr. President, our economy is now in the 11th month of a serious recession. More than 8 million people are unemployed and others are experiencing a real erosion of personal security. And the safety net that we put in place to help people weather economic downturns is not working. Three quarters of a million Americans exhausted their unemployment benefits during the first 3 months of this year. Unemployment programs currently serve only one-third of those who become unemployed.

While I have never supported the Gramm-Rudman-Hollings approach to the Federal budget, I did support the recession trigger that was added to the law to deal with precisely the situation we find ourselves in today.

Steps are needed to counteract the negative impact this recession is having on the people of our country. The task force on the economy in the 1990's, which I chair, has developed recommendations on appropriate measures, including improvements in the unemployment insurance system. These measures are intended to help people who are suffering as a result of the recession, as well as provide a stimulus to the economy. I hope we will be able to bring them before the full Senate in the very near future and I also hope the administration will work with the Congress to combat the effects of this economic downturn.

Mr. BIDEN. Mr. President, today the Senate for the second time this year was required to vote on waiving congressional budget restraints in re-

sponse to the recession. Once again, I joined the overwhelming majority of my colleagues in rejecting this idea.

The wisest policy for Congress continues to be keeping to its word on fiscal restraint. The enforcement provisions in last year's budget agreement sent a long-awaited message to the financial markets that the United States is serious about deficit reduction. Although I did not support the agreement because its terms were unfair, I recognize the importance of demonstrating this commitment. Recent interest rate cuts by the Federal Reserve—our best policy tool for ending the recession—can only have a chance of success if Congress keeps to its promise of fiscal responsibility.

Because the recession has worsened since the last time the Senate considered the same question, there is rising pressure to suspend the budget constraints adopted last year. But at this time it is better that we strengthen our economy's many built-in features that help to ease the pain of the recession for working Americans. Unemployment insurance, food stamps, welfare, and Medicaid are all programs that soften the job losses and falling incomes which accompany the recession. When they are working properly, these programs help families to keep bread on their tables and to ride out the economic storm.

I am concerned, however, about reports that unemployment insurance is not working as well as it should be. Americans who should be receiving benefits have not. I am supportive of efforts underway in Congress to fix the defects in this system, but I do not believe this requires us to suspend the budget law.

Our decision today is not final. Should the optimists be proven wrong, and the recession continue to worsen—and I hope this will not be the case—the Senate will return to this same question at a later date. At the time I hope the President and the administration will work with Congress to fashion a responsible answer to the recession.

The PRESIDING OFFICER. Under the previous order, all time has now been yielded back.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be allowed to proceed for 60 seconds, out of order, on an unrelated subject.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL PERSIAN GULF REFUGEE ASSISTANCE ACT OF 1991

Mr. BUMPERS. The Senate has just adopted a Kurdish relief authorization bill, which I strongly support. It is one

of the gravest tragedies in history, and we, as a country, with the values that we all share, have a moral obligation to address it, which we are prepared to do here, apparently.

I also support sending \$1½ billion in credits to the Soviet Union because if Gorbachev does make it you would be able to cut 10 times that much off the defense bill in the immediate future.

But I rise, Mr. President, to say that while I strongly support both of those items I want to point out that the people in my State and the people of Louisiana and Mississippi are suffering greatly from a very big flood and many of these people have lost virtually everything they had for the third year in a row.

Last year we put \$600 million in the appropriation bill for disaster loans and as of a few weeks ago, the Department of Agriculture has loaned a whopping \$38 of that \$600 million.

I do not think many of these people are even going to qualify for loans. They are going to have to have additional help, and the reason Senator COCHRAN and I did not put a hold on this Kurdish relief bill is that we do not want to mix it up, we do not want to hold that hostage, but there is a supplemental appropriation coming through here in about 5 weeks, and I tell you, Mr. President, and I tell my colleagues that there has to be some relief, there has to be relief provided for these farmers in the delta areas of those three States that I have just mentioned.

I yield the floor.

SUSPENSION OF CERTAIN PROVISIONS OF LAW

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. Under the previous order the vote on Senate Joint Resolution 137 will occur at 2 p.m. today.

CONSUMER PROTECTION AGAINST PRICE-FIXING ACT

The PRESIDING OFFICER. The clerk will report the unfinished bill.

The assistant legislative clerk read as follows:

A bill (S. 429) to amend the Sherman Act regarding retail competition.

The Senate continued with the consideration of the bill.

Mr. BUMPER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from South Carolina is recognized to offer an amendment; the Senator from Ohio is recognized to offer an amendment to that amendment.

Is the Senator from South Carolina desirous of offering the amendment?

Mr. METZENBAUM. Mr. President, it is my understanding the Senator from South Carolina does not desire to offer an amendment and I believe I am representing him accurately.

AMENDMENT NO. 90

The PRESIDING OFFICER. Is there further debate on the Brown amendment? If there be no further debate, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 90) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I would like to engage my colleague Senator BROWN in a colloquy concerning some of the language in his substitute amendment. In that substitute there is a new section 8(a)(1)(D) that provides that a decision by a supplier to "alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (c)(ii)." This section only modifies section 8(a)(1)(C)(ii) but I want to be clear about the intent of this section. I agree that a seller needs to be able to restructure its distribution system. I am concerned, however, that sometimes a supplier may claim to be restructuring the distribution system when in fact that claim is only a subterfuge for what is actually a scheme to enforce a price-fixing agreement.

Mr. BROWN. Nothing in my amendment, including paragraph (D), or in this colloquy, is intended to undermine the unilateral conduct protections afforded by the Supreme Court's decision in *United States v. Colgate*, 250 U.S. 300 (1919). I think it is very important that this legislation not inhibit the ability of a seller to change its form of distribution of its products. It would be unfair and unwise if the legislation had the result that a seller having at one time decided to sell its products through one form of distribution system, could not change its mind and adopt another type of system. Any such change could entail terminating some or all existing resellers.

By the same token you are quite right that such a change of distribution system could be a subterfuge for enforcing a resale price maintenance conspiracy, combination or agreement. It is my intent that this section apply to good faith efforts by a supplier to

adopt a different distribution system than it may already have in place such as an exclusive distributor outlet. I agree that it is possible that a supplier could claim to be establishing an exclusive outlet or supplier could claim to be establishing an exclusive outlet or adopting vertical location, customer or territorial clauses when in fact he or she was terminating a reseller pursuant to an illegal vertical price-fixing conspiracy, combination or agreement. This could be the case for instance where as part of an illegal price-fixing agreement a person eliminates the only price competition for a product but claims to be altering his or her distribution system in part.

Mr. METZENBAUM. I would also like to inquire of my colleague concerning new section 8(a)(2) which states "In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide nonprice business justification for the termination of the claimant or the refusal to continue to supply the claimant." This section relates to section 8(a)(1)(A) and the evidence from which the court could reasonably conclude that a person entered into a contract, combination or conspiracy to curtail competition. I understand this section is intended simply to make clear to the judge that we want the court to take into consideration evidence of bona fide business justifications in making the determination of whether there is a contract, combination or conspiracy.

Mr. BROWN. That is correct.

Mr. METZENBAUM. Mr. President, this is a great day for the American consumer. Five years after I first introduced this legislation to protect consumers from price fixing, the Senate has finally acted. Action on the bill has not been concluded, but essentially it has been. The reality is that it is like an emancipation day for the American consumer because it says to the American people you now have the right to buy at discount and the manufacturer will not be cutting off the retailer who sells to you because he is selling to you at less than the listed price. What a wonderful day that is.

So often we come here in the Congress and we pass legislation that adds to the cost of daily living of American people. This action today means that the American people will be saving dollars by being able to buy at a discount. I think it is a great day and speaks well for the U.S. Senate.

We will move it forward to the House. I am confident that the House, which has passed similar legislation before, will act appropriately and pass the legislation, and then I am hopeful that the President will see fit to sign it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I further ask unanimous consent that I be permitted to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

(The remarks of Mr. HELMS pertaining to the introduction of S. 1020 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HELMS. I thank the Chair, and seeing no Senator who wishes to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. PRESSLER. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PEACE CORPS AND THE NONTRADITIONAL VOLUNTEER

Mr. PRESSLER. Mr. President, I encourage older Americans and farmers to consider becoming volunteers for 2 years in the Peace Corps of the United States. As a cosponsor of Senate Joint Resolution 76, which commemorates the 30th anniversary of the Peace Corps, I recognize the value of this fine volunteer organization to developing countries around the world.

The Peace Corps today is not the Peace Corps of 1961. New areas of the world are touched by its presence. Following the lifting of the Iron Curtain, volunteers are now teaching English and demonstrating American business practices in Eastern Europe, Panama, and Nicaragua. The emergence and re-emergence of democracy has led to the return of the Peace Corps after a long absence.

The Peace Corps is now a multifaceted corps with over 6,000 volunteers in 88 countries, including 14 new countries this year. Eleven more countries will receive volunteers in 1992.

In addition to expansion, the Peace Corps is trying to change its image by recruiting older and more experienced applicants. The Peace Corps image is no longer that of college grads digging wells in Africa. Peace Corps Director Paul D. Coverdell recently said:

The Peace Corps in the 1990's will continue to recruit older volunteers who have wisdom and skills to share.

Currently over 10 percent of volunteers are 50 years or older. Many countries hosting the Peace Corps request senior volunteers because age is highly respected in these countries and age is considered to represent wisdom and experience.

Alberta Lee, aged 53, of Indiana, started nutrition programs in several villages in West Africa. She said:

Because I'm older, people have been very cooperative and accept my suggestions readily. I had no idea that as a Peace Corps volunteer I would have as much power and influence as seems to be the case.

I think this is an important point, Mr. President; that we think of the Peace Corps as something someone joins at age 18 or when they are out of college. But the fact is that many older persons—and I hope we do not consider 53 old—but my point is that people at any age can make a contribution to the Peace Corps. Increasingly we are seeing that to be the case.

In addition to older citizens, I would also like to encourage people in farming communities, including communities in my home State of South Dakota, to consider sharing their agricultural skills and knowledge with their counterparts in developing countries by becoming volunteers in the Peace Corps. The ability to grow adequate amounts of food to feed exploding populations is crucial to these starving countries. American farmers can help teach the survival skills so desperately needed by the unfortunate people of these nations.

If a 2-year commitment is too long, the Peace Corps also offers the Farmer-to-Farmer Program, which limits the volunteer service period from 30 to 120 days.

The shorter term of service allows the recruitment of farming specialists to provide assistance in such areas as agricultural extension, fisheries, irrigation, veterinary science, and more.

Applying to the Peace Corps is relatively easy. A person begins the process by filling out and sending in an application, outlining his or her background in areas such as nursing, farming, teaching, business management, et cetera. On the application a person may or may not choose a particular country in which to serve. A foreign language is helpful, but it is not always necessary. A phone interview, a reference and background check, and an examination of personal commitment follow the original application. The final commitment is needed only after

a final invitation from the Peace Corps Placement Office and medical clearance.

Mr. President, I want to emphasize the importance of a better understanding of the needs of the developing countries of the world. The Peace Corps has demonstrated that it is an excellent avenue for Americans to explore other countries. It has given over 125,000 past volunteers that opportunity. However, two great pools of talent have yet to be fully tapped—the older citizens of our country and the farmers of our country. I commend the Peace Corps' effort to recruit individuals from these and other groups. People in these categories should not miss the opportunity to expand their international horizons and earn the satisfaction of knowing that one has helped others to achieve a better life.

In conclusion, Mr. President, let me summarize by saying that I think the Peace Corps has made an outstanding contribution, and I am proud to be a cosponsor of a resolution commemorating its 30th anniversary. But perhaps, more important, is for our citizens to be made aware that the Peace Corps is for people of all ages. A retired businessman can make a real contribution in Poland or Czechoslovakia, helping to teach their citizens how free enterprise works. A farmer can teach farmers about irrigation, or a veterinarian can teach and be of great assistance in many of these countries.

I think the Peace Corps represents the best of American society, because we are reaching out. The volunteers get a small stipend. They get their costs paid. But they are not paid a salary that would normally support a family. So people have to be in a situation where they do not have immediate demands financially. But I think that more people from different walks of life should consider it.

There is also great demand for English teachers, and that is a language that is becoming the world business language. In order for some of these re-emerging European countries to conduct business, it is necessary that they have English as a tool.

I point these things out because we are at a turning point in terms of our foreign aid. As a member of the Foreign Relations Committee, I am constantly reminded of the limitations on our foreign aid. In fact, this afternoon we are going to talk about the possibility of an international bank for the Middle East.

The word I get from my constituents is that they are not willing to pay taxes for expanding foreign aid, because we are short of money and have a budgetary deficit. We can, however, reach out and in some ways make a greater contribution by sending people who have skills in free enterprise.

I do not think we should apologize at all for teaching people how to make a

profit. After all, the world realizes that what we have in the United States is what they want. The Berlin Wall came down. The people of Eastern Europe want that. There are problems in setting up small businesses. If you have lived in a Communist State all of your life, as have your parents, it takes a while—it may take a generation—to learn how free enterprise works. That is a place where small business people could make a contribution.

I know that farmers from my State of South Dakota have gone into the Peace Corps, and I have received letters saying what a great contribution these people have made, people who never thought they could make this kind of contribution in international affairs.

So, ironically enough, in the 1990's perhaps our greatest contribution in international affairs will not be fancy diplomatic parties or fancy diplomatic agreements, but they may well be a grassroots contribution from grassroots America.

I am proud to have on my staff at this time a young man who is about to serve in Costa Rica in the Peace Corps; Mr. Vance Timmer of my staff is about to depart for Costa Rica. We feel very proud of him and what we expect he will contribute to the Peace Corps Program.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I also ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair advises the Senator there is a vote scheduled for 2 o'clock. So the Senator may certainly proceed until that time as in morning business.

Mr. GLENN. I thank the Chair.

(The remarks of Mr. GLENN pertaining to the submission of Senate Concurrent Resolution 35 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

SUSPENSION OF CERTAIN PROVISIONS OF LAW

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the question occurs on the adoption of Senate Joint Resolution 137, which the clerk will read for the third time.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Utah [Mr. GARN] are necessarily absent.

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 5, nays 92, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—5

Harkin	Riegle	Wellstone
Pell	Sarbanes	

NAYS—92

Adams	Exon	McConnell
Akaka	Ford	Metzenbaum
Baucus	Fowler	Mikulski
Bentsen	Glenn	Mitchell
Biden	Gore	Moynihan
Bingaman	Gorton	Murkowski
Boren	Graham	Nickles
Bradley	Gramm	Nunn
Breaux	Grassley	Packwood
Brown	Hatch	Pressler
Bryan	Hatfield	Reld
Bumpers	Heflin	Robb
Burdick	Helms	Rockefeller
Burns	Hollings	Roth
Byrd	Inouye	Rudman
Chafee	Jeffords	Sanford
Coats	Johnston	Sasser
Cochran	Kassebaum	Seymour
Cohen	Kasten	Shelby
Conrad	Kennedy	Simon
Craig	Kerrey	Simpson
Cranston	Kerry	Smith
D'Amato	Kohl	Specter
Danforth	Lautenberg	Stevens
Daschle	Leahy	Symms
DeConcini	Levin	Thurmond
Dixon	Lieberman	Wallop
Dodd	Lott	Warner
Dole	Lugar	Wirth
Domenici	Mack	Wofford
Durenberger	McCain	

NOT VOTING—3

Bond	Garn	Pryor
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So the joint resolution (S.J. Res. 137) was rejected.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the joint resolution was rejected.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Assistant Executive Director of the Helsinki Commission, Jane Fisher, be permitted the privilege of the floor relating to Senate Resolution 117 offered by the Senator from Kansas [Mr. DOLE] during

the debate and the vote of such matter either today or on subsequent days.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER PROTECTION AGAINST PRICE FIXING ACT

The Senate continued with the consideration of the bill.

Mr. SASSER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 429 under cloture.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, we are now at the point where we are ready to pass the Consumer Protection Act of 1991. It is my understanding that one of the Members wishes to address the body on this subject before we pass it. It is also my understanding there will be a voice vote. I think we ought to move forward.

I think this is a great date, not alone for the Senate but for the consumers of this country. Under this legislation, they will be able to buy at a discount instead of having to pay the price set by the manufacturer, if some discount wants to sell at that price. I cannot think of a bill more appropriately scoped in the free enterprise system than this piece of legislation. It is what should have been the law, which we thought was the law for many years until the Supreme Court carved away at the thrust of the law, at the impact of the law by establishing new evidentiary rules.

I think we bring that about. We make some modifications. With the Brown amendment we further compromise that issue but do so in a way that will not be harmful to the consumer. So I say this is a wonderful Thursday afternoon and we ought to move forward as promptly as possible to enact this legislation.

Sixty-three Members of the body voted to cut off debate, 61 the day before voted to cut off debate. I think the will is obvious. I think such Members as there are who wish to be heard should come to the floor promptly or I will ask the Chair to move forward.

The distinguished Senator from Pennsylvania, for whom we have been waiting, has now arrived. I appreciate his support on both of the cloture votes, and I am looking forward to having him share with us some gems of wisdom.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished Senator from Ohio for those kind remarks. I note for the record that Senators could not have been waiting for me long because I just stepped off for a glass of water. I was off the floor for 1½ minutes. I had just talked to Senator METZENBAUM to try to speak with sufficient rapidity so he can make a doctor's appointment at 3 o'clock, and I will try to do that.

Mr. President, it is true that I supported the motions for cloture, that is, the motion to end debate on the motion to proceed and also the motion to end debate on the bill itself, because I think this is an important subject, first, that should have been taken up, and that is why I voted to limit debate on the motion to proceed.

I similarly voted to limit debate on the bill itself because there were no Senators clamoring to debate. Had someone wanted to speak at some substantial length, I would have preserved the right of that Senator to speak. But when it was simply a matter of requiring 60 votes to consider the bill and to pass the bill, I thought that should be done. This is not a matter which involves fundamental issues, no first amendment, no freedom of speech, freedom of religion issue. This is commercial legislation. While it is a very important one, I think the will of the Senate ought to be worked on the basis of majority rule.

Mr. President, I had originally asked for a rollcall vote along with some other Senators, and I have not pressed to have that taken because a number of Senators had expressed a preference that there not be a rollcall vote. I can, for the RECORD, state my opposition to the bill in its present form without recording it as a "no" vote on a rollcall.

In so doing, Mr. President, I am not opposed to this bill because of any opposition to vigorous antitrust enforcement. My record in the Senate and before as a practicing lawyer and as district attorney, demonstrates a very strong pursuit of antitrust law enforcement as a measure for competition. I believe that the antitrust laws have been vital in the economic development of this country as a matter of consumer protection and as a matter of maintaining basic competition which is the essence of the free enterprise system.

There is no doubt, Mr. President, that price fixing is against public policy, it is bad, and that it is illegal under the law.

The question on which we are focusing in this bill is what evidence should be required to submit a case to a jury. That is an important issue because the practice in litigation in the courts today is that there are many cases which are filed which are not meritorious. If the matter is to be protected in

litigation and costly and to be submitted to a jury with the vagaries as to what the jury system will bring, and this is not to denigrate the jury system which is the bulwark of liberties in the court and is very important, but the law has structured a division of responsibility between the court, that is, the judge ruling on matters of law, and the jury ruling on matters of fact. It is a fundamental principle in American law, Anglo-Saxon law, that there must be a sufficient level of evidence to satisfy legal requirements which are ruled upon by a judge in order to submit a case to the jury. It is only when that threshold has been reached that it is appropriate for the jury to consider whether or not the claim has been established in the face of conflicting evidence. You cannot speculate. There has to be sufficiency of evidence. Where cases may be involved in protracted litigation and submitted to the jury without that sufficient level of evidence, it is very costly. That cost comes back to the consumer and is unjustified under our system. It is that search that we have been engaged in: To determine what is the proper level of proof in a price-fixing case.

Mr. President, I do not believe the decisions by the Supreme Court of the United States in *Monsanto* and *Sharp* are correct decisions or have been correctly interpreted. I believe there ought to be a change in the law on the standard of proof to go to a jury. But I do not believe that S. 429, as presented, is the proper statutory construction to answer that question. Notwithstanding the very excellent work by our distinguished colleague from Colorado, Senator BROWN, I do not believe that the Brown amendment is sufficient to have the proper standard of proof to go to a jury.

Mr. President, without going into great detail, I would refer to the statement which I made in my own additional views in the Judiciary Committee report to which I referred yesterday and had made a part of the RECORD. Anybody who cares to see those views can find them in the CONGRESSIONAL RECORD of yesterday. I had referred to, and will repeat with reasonable brevity, the concerns that I have on the *Monsanto* case. This is the language which I find especially troublesome, although there are other parts of the decision which I find of concern which require remedial legislative action. But this is what the Supreme Court said in *Monsanto* in part:

Thus something more than evidence of complaints is needed. There must be evidence that tends to exclude the possibility that the manufacturer and nonterminated distributors were acting independently.

Mr. President, I believe that is realistically viewed as an inappropriate standard of proof. We know as a matter of common parlance the expression "anything is possible."

So that from the Supreme Court of the United States to require evidence that tends to exclude the possibility just goes too far. It requires the proof of a negative, and it requires excluding a possibility which I believe requires a legislative change. But as yet we have not found that legislative change to satisfy the requirement.

Mr. President, similarly in the *Sharp* case the Supreme Court used other language which I believe does not establish an appropriate standard of proof. The Court said this:

A vertical restraint is not illegal per se unless it includes some agreement on prices or price levels.

The difficulty with that, Mr. President, is that the language has been interpreted in a number of lower court decisions to exclude plaintiffs from having their cases submitted to a jury where at least in my view they should have been submitted to a jury, and that is the kind of a legislative change that I think should be made.

For example, Mr. President, in the case of *Toys 'R' Us* versus *Macy*, which is recorded in 728 F. Supp. 230 (S.D.N.Y. 1990), summary judgment was granted because the court found no evidence of a conspiracy to set prices at some level as required under *Sharp*, despite evidence being submitted that the defendant sought to maintain its keystone price, a phrase known throughout the clothing industry to establish a price at double the wholesale price.

In another case, *McCabe's Furniture* versus *La-Z-Boy Chair*, reported at 798, F.2d 323 (8th Cir. 1986), the case was not submitted to the jury because the court, looking at the *Sharp* case language, found that evidence that the complaints from the competitor included complaints about price, and that earlier the defendant had urged the plaintiff to maintain prices, did not meet the requirement to show an agreement to set price at some specific level. That case was excluded from the jury's consideration.

Mr. President, in describing these cases, and talking about the per se requirements and burden of proof, it is obviously a complex matter, but what we are dealing with here essentially is what ought to be sufficient to establish prices and these cases, the *Macy* case, the *McCabe's Furniture* case, are illustrative at least in my view of cases where the evidence was sufficient to submit to a jury and the import of the Supreme Court decision in *Sharp* ought to be changed.

By the same token, Mr. President, there are a series of cases where the *Monsanto* decision was interpreted in a way where again at least in my opinion the matter should have been submitted to a jury. Illustrative are *The Jeanery, Inc.* versus *James Jeans* case, reported at 849 F.2d 1148 (9th Cir. 1988) from the ninth circuit where summary judgment was granted even though the manufac-

turer said he would "take care of things" when presented with dealers' complaints about plaintiffs price cutting.

Another illustrative case is *Garment District, Inc. versus Belk Stores Services*, a decision from the Court of Appeals for the Fourth Circuit, reported in 799 F.2d 905 (4th Cir. 1986), where summary judgment was granted even though the manufacturer responded to defendant retailers' complaints by stating that the "situation" was a "mistake" and that the company intended to "rectify this situation."

Another illustrative case which at least again in my opinion should have been submitted to the jury was *Parkway Gallery Furniture, Inc. versus Kittinger/Pennsylvania House Group, Inc.*, a case by the Court of Appeals for the Fourth Circuit reported at 878 F.2d 801 (4th Cir. 1989) where summary judgment was granted even though there was evidence that the defendant sought assurances from its dealers that they would comply with this new marketing policy.

Mr. President, there is a great deal more that could be said about the situation but those decisions are illustrative of concerns which I have with the way retail price maintenance issues have been interpreted by the courts.

There has been a very strenuous effort made by many of us here in the Senate, and by my staff, a very able attorney, Tom Dahdouh, who has been assisting along with Richard Hertling, and others in my staff, in an effort to find the language which would accommodate the competing interests which are present here and change some of the direction and language of the decisions of the Supreme Court of the United States in *Monsanto and Sharp*.

In an effort to find this language I have met on a number of occasions with the very distinguished Assistant Attorney General, in charge of the Antitrust Division, James Rill. We met several months ago on a number of occasions, talked extensively by phone, and our staffs have worked together. And we sat down again today with a group of Senators and Assistant Attorney General Rill in an effort to see how we might structure the language which will accommodate the interests—that is, to have bona fide cases submitted to the jury but not allow cases to go to the jury where they are really meritless which would only increase the cost of litigation and induce settlements in order to avoid expensive litigation costs.

Those efforts have not yet been satisfactory. But it is a matter where we will continue to work. I believe that when we talk about altering court decisions where there is a legislative remedy for interpretations by courts we have to be very, very careful. The whole tradition and history of the com-

mon law is a case-by-case analysis where judges take a look at facts, precedents, and statutes, and try to come up with the lawful result. A legislative process does not have that degree of analysis in many respects which the judicial process has.

So having had some experience as a practicing lawyer, I approach the issue of modifying judicial decisions with a standard of great care. But there are occasions where the Congress, as a legislative body, has to make changes because the statutory interpretations are not in accordance with what the Congress concludes the Congress had intended when the original law was passed, or aside from the question of original congressional intent that the public policy of the United States has not been served by the original statute as interpreted by the courts. As I say, I believe that public policy is not properly served by the way that the *Monsanto* and *Sharp* decisions have come out on a number of lower court interpretations.

The approach, as I understand it, is to have the bill passed on a voice vote here today. I will vote no when that voice vote is taken.

I have taken some time today to state my reasons. It is my hope that somewhere along the line of the legislative process we will craft and structure a bill which accomplishes and accommodates the objectives which, at least from my point of view, ought to be accomplished.

Legislation has not been passed by the House of Representatives. It may be that from that body legislation will come a different bill which will meet the objectives that I have stated. If not, there will be an opportunity in conference. This bill may be subject to a veto. At least based upon the cloture votes, there is more than a sufficient number to veto the bill in its present form, although that is always problematical, as to whether that will occur. That is a Presidential decision.

There ought to be a change in the way we establish retail price fixing, but it has to be done carefully. And despite all of our efforts up until the present time, it is the judgment of this Senator, at least, that the present bill, even with the *Brown* amendment, does not fit that requirement. But it is something we ought to continue to try to work for, to have a bill which will accomplish the interests protecting consumers, letting legitimate price-fixing cases go to the jury but excluding cases which are unmeritorious and just result in high costs of litigation, which are borne by the consumer in another form.

I yield the floor.

Mrs. KASSEBAUM. Mr. President, I rise today in opposition of S. 429, the Consumer Protection Against Price-Fixing Act of 1991.

I would like to make it clear from the beginning, that while I oppose S. 429, I believe that vertical restraints on price are, and clearly should be, illegal. That rule, which remains the law today, was first announced by the Supreme Court in 1911 in the *Dr. Miles* decision. My concern with S. 429, however, is that it extends a new antitrust standard to situations beyond instances of classic price fixing.

The proposed legislation changes the standard under which a price-fixing suit may be brought. In this regard, S. 429 seeks to overturn the *Monsanto* decision defining the requirements for bringing a price-fixing lawsuit.

Under the *Monsanto* doctrine, a plaintiff cannot force a manufacturer into a jury trial on price-fixing charges simply because its termination followed complaints from other dealers about its prices. In an 8-to-0 decision, the Supreme Court held that the plaintiff had to offer some evidence that the termination was part of a conspiracy to fix prices. The Court noted that dealers commonly complain to manufacturers about the prices charged by competing dealers and that it would be wrong to assume a conspiracy every time a manufacturer terminated a dealer who had been the subject of price complaints.

I believe a manufacturer should have the right to terminate dealers or distributors that are offering poor service, advertising deceptively, or otherwise not performing to quality standards, so long as the termination is not a result of conspiracy to maintain resale price levels. They should be able to demand high standards, to offer the best quality products to consumers, and to maintain open communications with their dealers about the marketplace. If enacted, the bill would seriously threaten the ability of responsible manufacturers to terminate dealers that are not performing to the company's standards.

Under S. 429, even with the changes effected by the *Brown* amendment, the test for price fixing is too broad and would implicate legitimate business practices. As the Justice Department has stated, the amendment would still permit findings of conspiracy and price fixing where no one has conspired and prices have not been fixed.

If the requirements for bringing a price-fixing case are eased, manufacturers could become subject to frivolous lawsuits any time they terminate a distributor. Naturally, the threat of frivolous lawsuits, and the cost to settle or litigate such suits, will be passed on to consumers in the form of higher prices at the wholesale level.

I am against attempts by large retailers to force manufacturers to engage in price-fixing conspiracies. I believe that the current antitrust statutes should be enforced by both the Department of Justice and private rights

of action. However, to the extent this bill would hold manufacturers liable for unilateral business decisions unconnected to a price-fixing conspiracy, I believe it would ultimately prove detrimental to all consumers.

Mr. HARKIN. Mr. President, I rise to support S. 429, the Consumer Protection Against Price Fixing Act of 1991. S. 429 will overturn the Supreme Court's Sharp decision, which modified the rule that agreements between a supplier and a dealer to maintain prices are per se, or automatically, illegal. It will also clarify the evidence necessary to prove vertical price fixing. I am an original cosponsor of this legislation.

I want to talk about one of the major arguments made against S. 429. Opponents of this bill argue that in some lines of retailing, the consumers need more information about the product before they buy—this is called presale service. The usual example is stereos and TV's. Electronic equipment of this kind often needs extensive presale service to educate the consumer about the products available. A person buying a CD player, for instance, needs to find out whether they need a remote control, or to be able to program which order the songs will play, or whether they need a unit that can change discs. Retailers of these products which provide extensive service are concerned that discounters benefit from a phenomenon called free riding. Free riders find out which stereo they want at the full service dealer, taking advantage of the information the full service dealer provides, then buys the stereo at a lower price from a discounter not offering the same level of presale service. The manufacturers believe that by requiring competitors to maintain a minimum price, or to charge the customary retail markup, they will encourage the presale service they believe is necessary to properly market their product.

If the goal is to ensure that a product will get extensive presale service, then defeating this bill is not the way to achieve it. Manufacturers can contract to require dealers to provide presale service now, and they will not lose that option under this bill. Manufacturers can decide not to sell to a dealer that does not present its product properly now, and they will not lose that option under this bill. The only thing that is taken away under the bill is the ability of the full price retailer and the manufacturer to cut off a discounter because its prices are too low. If the retailer contracts to provide a minimum level of service, then price competition can still go on, with dealers vying to provide the services as efficiently as possible.

Retail price maintenance agreements might encourage some retailers in certain special markets—like stereo equipment—to provide more presale

service. But it inevitably results in higher consumer prices, not only in the markets where presale service is needed, but also in markets where such service is not required. In most stores and shops, the consumer receives little presale service. One recent case concerned a large department store chain and a children's swimwear manufacturer cutting off a discounter. I do not need any help from salesclerks to find swimsuits for my children, and I think many other parents feel the same way. For those Americans who are struggling to get by in this recession, saving a few dollars by going to a discount store can make a big difference. Retail price maintenance agreements prevent consumers from having the choice of how much service they want in purchasing goods. Consumers usually shop around to find the best price on merchandise, not to free ride.

So current law allows manufacturers to encourage high-service, high-price stores by terminating stores selling their products at too low a price. But current law also raises retail prices of all kinds of goods where service is not an issue, and prevents retailers from deciding how much service they want to provide. The last time I checked in Iowa, folks liked the big discount stores. They wanted to be able to buy products without the excess frills and salesmanship.

What is more, some consumers do not want presale service even in markets where service is usually required. While many people do not have the time or the interest to learn about stereos or other products, some are willing to research on their own without depending on the sales clerk to help them decide what they want. These people deserve to have the choice to buy from a store for the lowest possible price, without having to pay for service they do not need.

The decision whether to provide service is a marketing decision. If retailers think they will make more money selling with full presale service than selling at a discount, that is their decision. Discounting is not immoral, and neither is free-riding. Consumers have the right to shop around, to learn all they can about the products from the dealers and any other sources they can find, and to buy the best product they can find at the lowest possible price. This bill will promote vigorous competition between retailers, and the consumers will be the ones to benefit. I strongly support this legislation, and urge my colleagues to join me in voting for it.

Mr. CHAFEE. Mr. President, I would like to take a few moments to discuss the legislation that we will be voting on in the next few moments: S. 429, the Consumer Protection Against Price-Fixing Act of 1991.

First of all, just what is this bill about? It is not about making vertical

price agreements—those agreements between the manufacturer, the distributor, or the retailer—illegal. They already are illegal. Since 1911, the Supreme Court has ruled that manufacturers cannot conspire with their dealers to fix the price of their goods, and that remains true today. Furthermore, vertical price agreements currently are not only illegal, but per se illegal, meaning that they are deemed to be so anticompetitive that they automatically violate antitrust law just by their mere existence—no ifs, ands, or buts about it.

The illegality of vertical price agreements, therefore, is not in question. What is in question is how one goes about proving that an illegal collusion has occurred: what kind of evidence—and how much—is necessary to prove a violation; what kind of analytical test is applied to determine an antitrust violation, and so on. These technical tools used in antitrust actions are what this bill addresses.

It is important to be very clear about the evidentiary standards used in determining whether or not a per se antitrust violation has occurred. There must be a way to distinguish between a manufacturer's illegitimate termination of a retailer carried out as part of a conspiratorial action with another retailer, and a manufacturer's legitimate termination of a retailer for independent, justified, and legal reasons having nothing to do with any conspiracy.

Unfortunately, on the face of it, these two situations can be difficult to tell apart, and appearances can be deceiving. Manufacturers routinely receive price complaints from one retailer about another retailer. But should a manufacturer terminate a retailer about whom complaints were made, it may not be clear whether the complaints were part of a conspiracy to get rid of the competing retailer, or whether a planned, legitimate termination of a retailer simply coincided with price complaints about that retailer.

Thus, it is essential to strike a fair balance between manufacturers and distributors on the evidentiary standards. We must ensure that retailers who have been unfairly cut off simply because of their low prices can obtain relief. At the same time, we must ensure that manufacturers need not fear instant litigation every time they have a communication with their retailers. Without that balance, consumers lose. If the balance is tilted too far in one direction, consumers lose because retailers offering low prices are cut off and prevented from offering those goods. If the balance is tilted too far in the other direction, consumers lose because manufacturers facing the possibility of antitrust charges for innocent independent actions protect them-

selves by reducing the choices and services offered.

On this point, I had concerns about the approach taken in the bill as reported by the Judiciary Committee. I was not convinced that S. 429 struck this important balance. Thus, I did not vote to end debate on whether or not to proceed to this measure; I wanted to make sure that there would be time to study, consider, and possibly amend the measure.

I was pleased, therefore, that Senator BROWN offered his amendment to clarify the evidentiary standard in the underlying bill. In my view, the amendment helps to ensure that manufacturers' innocent actions will not be subject to automatic interpretations of conspiracy.

There was an understanding yesterday before the second cloture vote that should cloture be invoked, the Brown amendment would be accepted by the sponsors of S. 429. I was in support of the Brown amendment, and therefore voted to close debate on the bill. I believe the Brown amendment greatly clarifies S. 429, and I intend to vote in favor of the final amended measure.

Thank you, Mr. President.

Mr. THURMOND. Mr. President, I rise to reiterate my opposition to S. 429, as amended. I firmly believe that this bill, as amended, does not foster consumer interests, and that it is affirmatively harmful to American business and competitiveness.

Mr. President, in my view, S. 429 is simply special interest legislation masquerading as a consumer protection bill. Consumers are now protected by the Sherman Act. That act has worked well for 101 years—I repeat, 101 years. The Supreme Court of the United States, in two decisions has taken a position that the law, as it now exists, is fair to consumers. It has weathered the storms of political change and divergent economic thought, and has remained a constant guardian of competition, always balancing the interests of both consumers and business. That is what you have to do if you are going to compete; you have to balance the interests of consumers and business.

I remain very concerned that if we enact this legislation, we tip the scale against American business and cause further harm to our competitive position worldwide.

Mr. President, for these reasons, I urge my colleagues to vote against S. 429, as amended. I remind my colleagues that the Bush administration opposes this bill. President Bush and his administration would not favor a bill that hurts consumers. That is inconceivable.

As I said, this bill is a special interest bill masquerading as a consumer protection bill. The Attorney General of the United States, who represents all of the people of this country, would

not favor this bill if it hurt consumers. Who would think that he would do that? It would be inconceivable. The Attorney General is opposed to this bill. He thinks it is not in the best interest of the people of this country.

The chief of the Antitrust Division, Mr. Rill, is opposed to this bill. The Antitrust Division is the division set up to see that there is fair trade, and that there is competition, and that you do not have businesses combining to prevent competition. Mr. Rill believes this is a bad bill. He does not think it is in the interest of the consumers.

These are people that are appointed by the President as members of his administration, and they feel that this bill is not in the interest of consumers.

The Federal Trade Commission is also set up especially to see that there is fair trade and to prevent combinations that would hurt the public and consumers. They are opposed to this bill.

The American Bar Association has studied this bill for years, and they have concluded that it is a bad bill, that it should not pass, that it is not in the interest of consumers.

Many business associations oppose this bill. Many antitrust experts oppose this bill. If we are going to compete in the world, we had better not pass this bill. It is not in the best interest of the people of America. It is not in the best interest of business. It is not in the best interest of consumers.

The Supreme Court has handed down two decisions that this bill would overrule, two Supreme Court decisions—one that was unanimous, and another that was a 6 to 2 vote. So I think my colleagues had better think well before they vote to support this bill.

We will have a voice vote in a little bit. But I want to say that, in my opinion, if this bill passes—and should it pass the House—we can expect a veto, and I think the veto will be upheld.

If, after the Senate acts, something can be worked out among the Government agencies, the House, and the Senate, to get legislation that is not detrimental, that is one thing. If not, I certainly hope the President will veto this bill. I urge my colleagues to vote against this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina yields the floor.

Is there further debate?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment and third reading of the bill, as amended.

The bill, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Consumer Protection Against Price-Fixing Act of 1991".

SEC. 2. The Congress finds that—

(1) consumer welfare is greatly enhanced by an ability to purchase goods and services at lower prices as a result of vigorous price competition;

(2) vertical price restraints generally have an adverse impact on competition that results in higher consumer prices;

(3) recent court decisions have so narrowly construed the laws against vertical price restraints that consumer welfare has been put in jeopardy; and

(4) it is necessary to enact legislation that protects the interests of consumers in vigorous price competition while recognizing the needs of manufacturers and others to maintain reasonable service, quality and safety standards.

SEC. 3. The Sherman Act is amended by redesignating section 8 and any references to section 8 as section 9 and by inserting between section 7 and section 9, as herein redesignated, the following new section:

"SEC. 8. (a)(1)(A) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination or conspiracy to set, change, or maintain prices (other than a maximum price), if pursuant to the Federal Rules of Civil Procedure the court finds that there is sufficient evidence, direct or circumstantial, from which a trier of fact could reasonably conclude that a person who sells a good or service to the claimant for resale entered into a contract, combination, or conspiracy with a competitor of such claimant to curtail or eliminate price competition by such claimant in the resale of such good or service, then the court shall permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section.

"(B) For purposes of paragraph (1), the court shall find the existence of 'sufficient evidence' that a person who sells a good or service entered into a contract, combination, or conspiracy if the claimant presents evidence that such person—

"(i) received from a competitor of the claimant an express or reasonably implied request or demand that the seller take steps to curtail or eliminate price competition by the claimant in the resale of such good or service, and

"(ii) terminated the claimant as buyer of such good or service for resale or refused to continue to supply to the claimant some or all of such goods or services requested by the claimant and such request or demand was the major cause of such termination or refusal to continue to supply.

"(C) For purposes of subparagraph (B)(ii), no such request or demand shall be deemed to constitute the major cause of such termination or refusal to continue to supply un-

less, at a minimum, there is evidence that such person—

"(i) expressly or impliedly acquiesced to the request or demand, or

"(ii) expressly or impliedly threatened, or took actions, in addition to the termination or refusal to continue to supply at issue in the case, to curtail or eliminate price competition by the claimant or others engaged in the resale of goods or services.

"(D) A decision by such person to alter, wholly or in part, its distribution policy through adoption of exclusive distributor outlets or vertical location, customer or territorial clauses shall not constitute an action to curtail or eliminate price competition for purposes of subparagraph (C)(ii).

"(2) In making its determination with respect to the existence of a contract, combination or conspiracy, the court shall consider evidence in rebuttal supporting any actual, bona fide nonprice business justification for the termination of the claimant or the refusal to continue to supply the claimant.

"(3) The court shall not permit the trier of fact to consider whether such person and such competitor engaged in concerted action to set, change, or maintain prices for such goods or service in violation of such section if the court determines that the trier of fact could only find that such person and such competitor engaged in concerted action by making inferences which are implausible.

"(b) In any civil action based on section 1 or 3 of this Act, including an action brought by the United States or by a State attorney general, or by the Federal Trade Commission under section 5 of the Federal Trade Commission Act, which alleges a contract, combination, or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of a good or service entered into an agreement to set, change or maintain the resale price of a good or service shall be sufficient to constitute a violation of such section, except that this section shall not apply when the agreement to set, change, or maintain the resale price of a good or service in an agreement to set, change, or maintain the maximum resale price of a good or service. Such maximum resale price agreements shall not be deemed illegal per se; such agreements shall be judged on the basis of their reasonableness, taking into account all relevant factors affecting competition in the relevant market for the good or service that is the subject of the agreement. An agreement between the seller of a good or service and the purchaser of a good or service to terminate another purchaser as a dealer or to refuse to continue to supply such other purchaser shall constitute a violation of such section if such purchaser's discount pricing was the major cause of such termination or refusal to continue to supply, whether or not a specific price or price level is agreed upon."

SEC. 4. Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of that Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

SEC. 5. Nothing in this Act shall affect the application of the rule of reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws, or the existing state of law with respect to other types of nonprice vertical restraints.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I ask unanimous consent to proceed for approximately 10 minutes with a statement on a bill I am introducing today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan is recognized.

Mr. RIEGLE. I thank the Chair.

(The remarks of Mr. RIEGLE pertaining to the introduction of S. 1019 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

REFUGEE RELIEF AUTHORIZATION BILL

Mr. KENNEDY. Mr. President, I give my strong support to H.R. 2122, the dire emergency supplemental authorization bill. This bill authorizes \$4 million in emergency assistance to the 1.5 million Kurdish refugees who are suffering under desperate conditions in Iran, Turkey, and Iraq.

Rarely, if ever, has the world witnessed a refugee crisis of this magnitude. Rarely has there been such a tragic exodus of men, women, and children from their homes and their homeland.

I urge all my colleagues to join me in supporting this supplemental appropriation and ensuring that immediate humanitarian assistance is provided to the long-suffering Kurdish people.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. LEAHY]. Without objection, it is so ordered.

RECESS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4:45 p.m.

There being no objection, the Senate, at 3:40 p.m. recessed until 4:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SIMON].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Illinois, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER [Mr. LAUTENBERG]. Without objection, it is so ordered.

RECESS

Mr. DOLE. Mr. President, I move that the Senate stand in recess until 5:45 p.m.

The motion was agreed to and at 5:33 p.m., the Senate recessed until 5:46 p.m., when called to order by the Presiding Officer [Mr. LAUTENBERG].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of New Jersey, suggests the absence of a quorum.

The clerk will please call the roll. The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE ESTABLISHMENT OF AN AMERICAN POW/MIA OFFICE IN HANOI

Mr. CONRAD. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Resolution 118, and I ask for its immediate consideration.

Mr. SMITH. Reserving the right to object, Mr. President. I will not object to this resolution, but would like to make a comment regarding it.

Our State Department policy, to be very brief, used to be that no office would be set up until the level of activity justified setting it up in Vietnam and that we had received assurances from Vietnam that there would be more progress on the MIA issue; most specifically, access to the country in terms of crash sites, in terms of records, and in terms of the prison system.

I spoke with Senator MCCAIN a short time ago and he gave me his assurances that General Vessey has those assurances from the Vietnamese in writing.

For that reason and because of the respect that I have for Senator MCCAIN and the fact that we all share the same goals here, Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 118) commending the agreement for the establishment of an American POW/MIA office in Hanoi, Vietnam, and recommending that such office be authorized to serve as a liaison between the families of Americans missing-in-action and the Government of Vietnam.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 118) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 118

Whereas 18 years have passed since the United States withdrew its armed forces from Vietnam, and 16 years have passed since the conclusion of the Vietnam conflict;

Whereas 2,276 Americans are listed as missing and unaccounted for as a result of the Vietnam conflict;

Whereas many families of Americans missing-in-action believe their relatives are alive and held against their will in Vietnam;

Whereas senior Vietnamese officials have assured members of Congress that the Government of Vietnam will allow the families of Americans missing-in-action in Vietnam to investigate, in Vietnam, reports of sightings of live Americans;

Whereas on April 20, 1991, Vietnamese Foreign Minister Nguyen Co Thach and the President's Special Enmissary for POW/MIA affairs, General John Vessey agreed, on behalf of their governments, to establish a POW/MIA office in Hanoi to be operated by United States Government officials;

Whereas the establishment of the POW/MIA office is intended to facilitate greater cooperation between the governments of the United States and Vietnam on POW/MIA matters, including joint field investigations and information research in Vietnam; and

Whereas many families of Americans missing-in-action desire the opportunity to participate in determining the fates of their relatives: Now, therefore, be it

Resolved, That the Senate commends General Vessey and Foreign Minister Thach, and the governments of the United States and Vietnam for agreeing to establish an American POW/MIA office in Hanoi, Vietnam, and calls for the immediate establishment of the office.

SEC. 2. It is the sense of the Senate that, in addition to its functions described in a joint statement by General Vessey and Foreign Minister Thach released on April 20, 1991, the POW/MIA office should be authorized to serve as a liaison between the families of Americans missing-in-action and the Government of Vietnam through which the families can make arrangements with the Government of Vietnam to investigate the fates of their relatives.

SEC. 3. For purposes of this resolution—

(1) the term "POW" means prisoner of war in Southeast Asia; and

(2) the term "MIA" means members of the United States Armed Forces and United States civilians mission-in-action in Southeast Asia.

SEC. 4. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State.

Mr. CONRAD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SMITH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDATION OF FEDERAL CIVILIAN PERSONNEL IN OPERATION DESERT STORM/SHIELD

Mr. AKAKA. Mr. President, I send a concurrent resolution to the desk, and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 36) thanking and commending this Nation's Federal civilian employees for their contributions to Operation Desert Shield and Operation Desert Storm.

The PRESIDING OFFICER. Is there objection to proceeding to consider the concurrent resolution? Without objection, it is so ordered.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Is there debate on the concurrent resolution?

The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise in support of legislation which recognizes and commends our Nation's Federal civilian personnel for their enormous contribution to Operations Desert Shield and Desert Storm. I am pleased that several of my colleagues are joining me in this effort. Senators ADAMS, BURDICK, MIKULSKI, ROBB, and SARBANES are cosponsors of this noteworthy resolution, and I deeply appreciate their support to honor our Federal civilian personnel.

There is no doubt that our Armed Forces personnel exhibited the highest form of honor and professionalism during the Persian Gulf crisis. We should take this opportunity, however, to also express our appreciation to the thou-

sands of Federal civilian employees whose untiring efforts assisted in the successful execution of Operations Desert Shield and Desert Storm.

These dedicated and committed employees certainly set a standard of excellence and performance in carrying out their duties and responsibilities. Although we did not read about their efforts on the front pages of our newspapers, their "behind-the-scenes" contributions undoubtedly helped to assure the success of this operation.

Of the thousands of men and women sent to the Middle East, over 4,000 were Federal civilian employees who were relocated to work in the Persian Gulf theater of operations. An additional 20,000 Federal employees were called to active duty as reservists and thousands more reservists were asked to support the additional work requirements across this Nation and around the world.

Our Federal civilian employees met this Nation's call to duty with distinction. Working under severe time constraints, unrelenting pressure and seemingly insurmountable logistical problems, our Federal civilian employees overcame these obstacles and resolutely met their tasks. I commend these fine Americans and extend my gratitude for their contributions during this crisis.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the concurrent resolution.

The resolution (S. Con. Res. 36) was agreed to.

The preamble was agreed to.

The concurrent resolution and its preamble are as follows:

S. CON. RES. 36

Whereas American and Allied forces were resoundingly successful in carrying out their mandate to liberate Kuwait pursuant to United Nations Security Council resolutions;

Whereas a key factor in bringing that outcome about was the transporting of over 500,000 United States troops, almost half a million tons of ammunition, and approximately 100,000 motorized vehicles to the Persian Gulf region, representing the most massive movement of troops, supplies, and materiel that the world has ever seen, and which could not have been achieved without the tireless efforts of this Nation's Federal civilian employees;

Whereas more than 4,000 Federal civilian employees were relocated to work in the Persian Gulf theater of operations, over 20,000 Federal civilian employees were called to active duty as reservists, and thousands of other Federal civilian employees in the United States and around the world contributed to the war effort in ways too many to enumerate;

Whereas Federal civilian employees, despite seemingly insurmountable logistical problems, unrelenting pressure, and severe time constraints, successfully accomplished what this Nation asked of them in a manner consistent with the highest standards of excellence and professionalism; and

Whereas Federal civilian employees are truly among the unsung heroes in Operation Desert Shield and Operation Desert Storm: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby—

(1) expresses its deepest gratitude to this Nation's Federal civilian employees for their contributions to Operation Desert Shield and Operation Desert Storm; and

(2) commends and congratulates this Nation's Federal civilian employees on a job superbly done.

Mr. AKAKA. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. AKAKA. Mr. President, I would like it to be known that this action was cleared on the Republican side.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARKIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 1037 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions," and the remarks pertaining to the submission of Senate Resolution 124 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

IN HONOR OF MARIE MAJEWSKE OF ALASKA

Mr. MURKOWSKI. Mr. President, I rise today to applaud and commend the outstanding efforts of Marie Majewske of Alaska for her diligent work with Alaskans for Recriminalization of Marijuana. Marie served honorably as the chairperson of this organization.

For many years, Marie Majewske worked with education-related groups which supported the recriminalization of marijuana. Most recently, Marie collected over 2,500 signatures—her husband, Otto, collected 1,500—which called for the recriminalization issue to be considered on the November 1990 ballot.

Although threats of physical harm and damage to her property were made during the preballot period, Marie never wavered in her commitment to recriminalize the use of marijuana in the State of Alaska. As Marie stated, she was doing this for the youth of Alaska. She strongly believed that Alaska youth had the right to grow up in a drug-free society.

I am proud to know Marie and respect her greatly. Her efforts were instrumental in achieving a victory last November. Our youth in Alaska can

say "no" to drugs knowing that the use of marijuana is illegal because the majority of voters in Alaska took that position last fall.

The citizens of the State of Alaska can be proud of one of their own who courageously and tirelessly worked to champion an important goal. Her work has not gone unnoticed or unappreciated by this Senator. To Marie, I thank you.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PASSAGE OF THE KURDISH RELIEF BILL

Mr. PELL. Mr. President, this legislation provides authorization for essential assistance to the Kurdish people made homeless by the brutal policies of the Saddam Hussein regime. More than 2 million people have sought refuge along Iraq's borders with Turkey and Iran. We have all been deeply moved by the television images of dehydrated babies lying listless on the ground, staring hollow eyed into an uncertain future.

After a too long delay, the international community is now taking care of the material needs of the 800,000 refugees along the Turkey border. There is an urgent need for assistance to the larger number of refugees along the Iranian border and this, in turn, will require greater cooperation from the Iranian Government.

This legislation addresses the humanitarian needs of the Kurdish people. The larger problem, however, is a political and military one.

As long as Saddam Hussein is in power, the Kurds will be at risk of slaughter by the Iraqi Army. The United States and its coalition allies now occupy a significant part of northern Iraq. This safe haven, which I hope will soon be expanded to include the city of Dihok, can accommodate up to 1 million of the Kurdish refugees. To accommodate all refugees a further expansion to the east and south is required.

This is not a situation from which we can easily extricate ourselves. If we pull out while Saddam is still in power, the Kurds will leave with us or face death. I would hope, therefore, that a very high diplomatic priority be given to creating an international force, preferably under the auspices of the United Nations, to protect the Kurdish population of Iraq from the Iraqi police and army.

If the current negotiations between the Baghdad regime and the Kurds

produce agreement on Kurdish autonomy, then there is a way for the United States to get out of Iraq. But we can only do so if there are credible international guarantees for the autonomy arrangement including a mandate for the use of force if Iraq violates the terms of any Iraq-Kurd deal.

Ultimately, we cannot forget that Saddam Hussein is the root of our problem in this region. Unfortunately, we may have lost our best opportunity to get rid of him, and he is now much stronger than he was 2 months ago.

Saddam Hussein and his regime have committed grievous violations of international law of which the slaughter of the Kurds and the occupation of Kuwait are but two examples. So far, Iraq has not even honored the conditions contained in U.N. Resolution 687 for the cease-fire. Among other things, all Kuwaiti prisoners have not been returned home or accounted for. The list of Iraq's weapons of mass destruction sent to the United Nations is incomplete.

A regime with this sort of record cannot be reintegrated into the international community. It is a pariah regime and should be treated as such. The world community must not treat Saddam Hussein and his Ba'ath Party clique as the legitimate rulers of Iraq, but rather, should in every way emphasize its illegitimacy.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. The Chair informs the Senator we are in morning business at this time.

HOLDING THE LINE AGAINST NUCLEAR PROLIFERATION IN SOUTH ASIA

Mr. PRESSLER. Mr. President, I believe we should hold the line against nuclear proliferation in South Asia.

Last month the President submitted to Congress an important foreign aid reform bill. The President's proposal would eliminate a number of inconsistencies in the existing foreign aid law and grant the Executive greater flexibility in conducting the foreign policy of this Nation. I welcome this initiative and agree that foreign aid reform is long overdue.

Regrettably, the President's package also strikes an important nuclear non-proliferation provision that applies to Pakistan. Under current law all foreign assistance to Pakistan is prohibited unless the President certifies to Congress that Pakistan does not possess a nuclear weapon. This year, the President has not been able to certify that Pakistan does not possess a nuclear weapon. Consequently, all economic and military assistance to Pakistan currently is on hold.

This nonproliferation provision is known as the Pressler amendment because I offered it as an amendment in 1985 during markup of the Foreign Aid Authorization Act. At that time, the administration welcomed my amendment. In fact, at that time the administration supported my amendment. There were efforts by some members of the Foreign Relations Committee to curtail all United States assistance to Pakistan at that time and therefore my amendment was seen as a compromise which resulted in aid going forward to Pakistan. In 1985, Pakistan faced 120,000 Soviet troops on her border, repeated cross-border raids from Afghanistan, and wanton acts of Soviet-inspired terrorism in the crowded bazaars of Peshawar and Islamabad. A draconian cut in foreign assistance to Pakistan would have undermined the security interests of both Pakistan and the United States.

Nonetheless, I believed, and the administration agreed, that it was important to send a strong but fair message of our concern to Pakistan. I offered an administration-supported compromise provision to establish a clear policy on assistance to Pakistan. That standard merely requires the President to certify that Pakistan does not possess a nuclear weapon. If the President can make the certification, generous levels of economic and military assistance are available.

Indeed, since the amendment was adopted, Congress annually has supported the President's request for both security assistance and economic assistance. Until last year, Pakistan was among the largest recipients of United States foreign assistance. There should be no doubt in the mind of any Pakistani about the American commitment to help. The Pressler amendment sets a fair standard. It offers no surprises. It has been on the books now for 6 years. Pakistani officials are well aware of the provision. They have been reminded of it time and again by senior U.S. officials.

I regret that our friends in Pakistan appear to have chosen the nuclear route. I do not know whether Pakistan possesses a nuclear weapon. But the fact of the matter is, the President cannot certify that Pakistan does not possess such a weapon or the components to assemble one.

I do hope that the administration and the Government of Pakistan can work past this current impasse. I highly value the bonds of friendship between Pakistan and the United States. Pakistan has stood stalwartly with the Afghan freedom fighters since the brutal Soviet invasion. She has sheltered the largest refugee population in the world. During the recent Persian Gulf crisis, Pakistan's government, led by Prime Minister Nawaz Sharif, stood courageously with the United States—despite pressure from powerful ele-

ments of the Pakistani military. In fairness to Pakistan, the Government of India has been less than forthcoming in its efforts to address proliferation issues on the subcontinent. We must keep in mind that if was India—not Pakistan—that exploded a nuclear device in the early seventies.

In the meantime, the Congress should not retreat from a fair and principled policy governing nonproliferation in South Asia. Eliminating the Pressler amendment in no way would further our nonproliferation objectives in South Africa. The President's proposal to strike the Pressler amendment does not appear to stem from any policy disagreement between Congress and the administration. In a letter dated April 12, 1991, the President indicated that this action is consistent with his approach of removing country specific provisions from the current Foreign Assistance Act—not because he disagrees with the substance of the provisions.

The President indicated that he will continue to hold Pakistan to the same standard as embodied in the Pressler amendment. His letter states:

While the proposed elimination of the Pakistan-specific certification requirement is intended to uphold the general principle of Presidential authority, I will continue to insist on unambiguous specific steps by Pakistan in meeting nonproliferation standards, including those specifically reflected in the omitted language known as the Pressler amendment. "Satisfaction of the Pressler standard will remain the essential basis for exercising the national interest waiver that is in the administration's proposal."

Thus, the President of the United States is saying that the administration is still going to adhere to the Pressler standard even if the Pressler amendment is repealed, although it is recommending that the Pressler amendment be repealed. My feeling is if we are going to adhere to the same standard, we might as well leave the amendment as it is.

Mr. President, it is clear that the President has no substantive disagreement with the Pressler amendment. In fact, as I have already noted, in 1985 the administration wanted the amendment. And I should point that out.

There was an editorial in one of the Washington papers recently, the Washington Times, saying that my amendment in 1985 represented micromanagement of foreign policy, but the amendment actually was supported by the administration at that time because it wanted the economic and military aid to Pakistan to go forward.

Since the administration supports the intent of the amendment, it is important to retain it as a component of the Foreign Assistance Act. Frankly, I do not believe that the administration has made a persuasive argument for eliminating this provision from the law.

While this President has pledged to hold Pakistan to the Pressler standard, I believe that it is important for Congress to express a clear view on this issue as well. Therefore, when the Foreign Assistance Act authorization legislation comes before the Foreign Relations Committee, I intend to oppose any efforts to eliminate the Pressler amendment. I am pleased to note that the House Foreign Affairs Subcommittee on South Asian and Pacific Affairs last month decided to leave the Pressler provision on the books.

Mr. President, I ask unanimous consent that the President's letter to the Senate and a recent Washington Post article on this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, April 12, 1991.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I attach great importance to the proposed "International Cooperation Act of 1991," which we are submitting for congressional consideration. Secretary Baker and I look forward to working closely with the Congress to ensure its prompt enactment.

Events in recent months have dramatically illustrated the growing urgency for flexible and rapidly available economic, military, and humanitarian assistance as a vital instrument of American foreign policy. Before us loom international opportunities and challenges as promising as any our nation has faced since the end of the Second World War. Yet the law governing foreign assistance has become so complex, splintered and restrictive that it no longer serves our essential national interests and aspirations. The shortcomings of existing law are likely to become even more pronounced and damaging as we move ahead through the volatile transition to a new world order.

Together, we must regain the essentials of administrative simplicity, flexibility, accountability, and clarity of purpose that originally characterized the Foreign Assistance Act of 1961. The world, of course, has changed fundamentally since then, especially during the two years following our last effort to reform the law governing foreign assistance. What have not changed, however, are the basic values and national outlook that motivate our foreign assistance.

My overarching goal is for the United States to remain at the forefront of a world community that is increasingly democratic, market-oriented, and willing and able to cooperate against aggression. The urgently needed reforms I propose would restore the necessary coherence and flexibility to pursue effectively the five basic and closely interrelated objectives that now frame our foreign policy: promoting and consolidating democratic values, promoting market principles and strengthening U.S. competitiveness, promoting peace, protecting against transnational threats, and meeting urgent humanitarian needs.

All of the continuing programs that have been included in the proposed legislation are essential to our national interest, at least in the short run. I fully recognize, however,

that pressures to adjust to new international realities are rapidly increasing, and, in the years immediately ahead, we must work energetically together to meet the new challenges they are producing. We must also reach these important, if difficult, decisions within the constraints imposed by the Budget Enforcement Act of 1990.

In my March 6 address to the Joint Session of Congress, I observed that our nation cannot lead internationally if we propose policies as usual in devising and implementing foreign assistance. I asked Congress to work with me to put an end to micromanagement of all of our foreign economic, security, and humanitarian assistance programs. Each of these programs must become part of a coherent strategy that will advance a foreign policy worthy of our deepest and most abiding national aspirations. Without the flexibility provided for in the proposed International Cooperation Act it will be impossible to forge such coherence and to sustain the international leadership that we both desire.

On my part, I pledge to work closely and cooperatively with the Congress throughout each stage of the foreign policy-making process so that you can fully meet your responsibilities under the Constitution. But I am also convinced that we will be unable to deal with the momentous—and often unpredictable—events of today's world if Congress continues to restrict presidential prerogatives. Such micromanagement must not be part of this legislation.

In seeking to restore the proper balance of congressional and presidential authority in the conduct of foreign policy, the Administration's proposal deletes the many restrictions, prohibitions, burdensome reports, unnecessary reporting requirements and statutory waiting periods that have accumulated over several decades. The proposed revisions will significantly strengthen our capacity to respond positively and effectively to a rapidly changing environment, while reducing the risk of missed opportunities.

The restitution of presidential authorities would extend to all aspects of the proposed legislation. One especially sensitive and important area concerns nuclear nonproliferation. Consistent with our approach of removing country-specific provisions, the Administration's proposal does not contain a specific provision on assistance to Pakistan, as stipulated in the current Foreign Assistance Act.

Nevertheless, I give the Congress my unequivocal assurance that my position on the critical issue of preventing nuclear proliferation in South Asia and elsewhere will not weaken. While the proposed elimination of the Pakistan-specific certification requirement is intended to uphold the general principle of presidential authority, I will continue to insist on unambiguous specific steps by Pakistan in meeting nonproliferation standards, including those specifically reflected in the omitted language, known as the Pressler Amendment. Satisfaction of the Pressler standard will remain the essential basis for exercising the national interest waiver that is in the Administration's proposal in order to resume economic and military assistance to Pakistan. By adopting this policy firmly and publicly as the Administration's position, my intention is to send the strongest possible message to Pakistan and other potential proliferators that nonproliferation is among the highest priorities of my Administration's foreign policy, irrespective of whether such a policy is required by law.

The proposed legislation addresses many complex and difficult issues, with profound

political and moral implications for America's global role. But the world we seek to influence is in the throes of an historic transition that creates special opportunities and responsibilities for our nation. The process by which we resolve our differences will be as important to the effectiveness of our foreign policy as the decisions finally taken. I hope that you will find this proposal to be an appropriate foundation for building such cooperation, and moving forward to revitalize foreign assistance so as to serve better our most fundamental values and interests.

Sincerely,

GEORGE BUSH.

[From the Washington Post, Apr. 25, 1991]

HILL PRESSED TO LIFT CURB ON PAKISTAN

(By Steve Coll)

NEW DELHI.—The Bush administration, while pledging an aggressive campaign to stop the spread of nuclear weapons in volatile South Asia, is lobbying Congress to repeal a measure that bans U.S. aid to Pakistan because of that country's attempts to build an atomic bomb, according to sources on Capitol Hill.

Democrats in Congress who have been active on the nuclear proliferation issue say they are determined to defeat the president's attempt, which if successful would provide the administration new freedom to refurbish Washington's badly frayed relationship with Islamabad, long a close U.S. ally.

The tussle over the measure, known as the Pressler amendment after Sen. Larry Pressler (R-S.D.), highlights the quandaries the United States faces as it attempts to reorder priorities and alliances in the aftermath of the Cold War. In the case of South Asia, Washington's stated priorities have shifted during the past two years from geopolitical competition with the Soviet Union to halting the spread of weapons of mass destruction in an unstable region of the developing world.

The administration's effort to repeal the Pressler amendment is part of broader legislation proposed earlier this month that would restrict Congress's ability to impose conditions on the disbursement of U.S. foreign aid. In a letter accompanying the bill, Bush offered his "unequivocal assurance" that repeal of the amendment would not weaken his administration's commitment to preventing nuclear proliferation in South Asia. "Satisfaction of the Pressler standard will remain the essential basis" for deciding whether or not to give aid to Pakistan in the future, Bush wrote.

Democrats in Congress say that promise is not enough. "I just don't see that it's possible or prudent to repeal legislation that has been the foundation of our nonproliferation policy in South Asia," said Rep. Stephen Solarz (D-N.Y.), chairman of the House foreign affairs subcommittee on Asian and Pacific affairs and long an active supporter of the Pressler amendment. Solarz and other Democrats predicted that the repeal attempt, and probably the broader foreign aid bill, called the International Cooperation Act, would be defeated.

The question frequently debated about the Pressler amendment is whether banning aid to Pakistan because of its nuclear program without similarly pressuring India, Pakistan's longstanding rival, furthers or hinders the goal of limiting nuclear arms in South Asia, site of five wars and countless crises during the past four decades. India tested a nuclear bomb in 1975; Pakistan has never tested a device, but is believed by the United

States to possess at least one in virtually assembled condition.

Supporters of the Pressler amendment argue that it sends a strong message that the United States will not reward countries that expand their nuclear weapons programs. Opponents, including some members of the Bush administration, say the Pressler aid ban has reduced U.S. influence in Pakistan at a time when that country is making fateful decisions about its military and political future.

Last October, because of the administration's conviction that Pakistan had virtually constructed a nuclear bomb, Washington halted almost all economic and military aid to Islamabad, which was then the third-largest recipient of U.S. assistance. Since then, Pakistan and India have moved openly toward a state of low-level mutual nuclear deterrence, ratifying a treaty banning attacks on each other's nuclear facilities and proposing safeguards to prevent accidental nuclear attacks.

Mr. PRESSLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. HARKIN. Mr. President, as in executive session, I ask unanimous consent that at 2:15 p.m., on Tuesday, May 14, the Senate proceed to consider, en bloc, the following treaties: Executive Calendar 2, Executive Calendar 3, Executive Calendar 4, and Executive Calendar 5.

I further ask unanimous consent that there be 10 minutes overall, equally divided between the chairman and ranking member of the Committee on Foreign Relations, or their designees; that no amendments, reservations or understandings, other than those recommended by the committee, be in order; and that no motions to recommend be in order.

I further ask unanimous consent that the recommended understandings to Executive Calendar 5 be considered as having been proposed and agreed to; provided further, one vote count as four votes on the four items; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session following the vote.

I further ask unanimous consent that these four treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider all of the nominations reported today by the Committee on the Judiciary.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

William Harold Albritton III, of Alabama, to be U.S. district judge for the Middle District of Alabama.

Marilyn L. Huff, of California, to be U.S. district judge for the Southern District of California.

Wm. Fremming Nielsen, of Washington, to be U.S. district judge for the Eastern District of Washington.

Frederick L. Van Sickle, of Washington, to be U.S. district judge for the Eastern District of Washington.

Henry M. Herlong, Jr., of South Carolina, to be U.S. district judge for the District of South Carolina.

DEPARTMENT OF JUSTICE

Richard D. Bennett, of Maryland, to be U.S. attorney for the District of Maryland for the term of 4 years.

Harry A. Rosenberg, of Louisiana, to be U.S. attorney for the Eastern District of Louisiana for the term of 4 years.

Michael Chertoff, of New Jersey, to be U.S. attorney for the District of New Jersey for the term of 4 years.

Willie Greason, Jr., of Missouri, to be U.S. marshal for the Eastern District of Missouri.

Jose R. Mariano, of Guam, to be U.S. marshal for the District of Guam and concurrently U.S. marshal for the District of the Northern Mariana Islands for the term of 4 years.

Larry J. Joiner, of Missouri, to be U.S. marshal for the Western District of Missouri.

STATEMENT ON THE NOMINATION OF JUDGE HENRY HERLONG

Mr. THURMOND. Mr. President, I would like to voice my strong support for Judge Henry Herlong, President Bush's nominee to be a judge for the U.S. District Court for South Carolina. Judge Herlong currently serves as a U.S. magistrate in South Carolina.

Judge Herlong was born in Washington, DC, however, he spent most of his life as a resident of South Carolina. Judge Herlong is a graduate of Clemson University and the University of South Carolina Law School. He served in the U.S. Army Reserves from 1967 until 1973. In addition to his service to our country, he has also assisted his local community. In 1978, he was elected to the Edgefield County Council where he served until 1983.

After law school, Judge Herlong worked in my Senate office for 2 years

as a legislative assistant. In 1972, he left my office to become an assistant U.S. attorney in the Criminal Division of the U.S. Attorney's office in Greenville, SC. In 1976, Judge Herlong entered the private practice of law. During his tenure in private practice, Judge Herlong worked as a part-time public defender and the city attorney for the town of Edgefield. In 1983, he left private practice to again serve as an assistant U.S. attorney, but this time in the Civil Division of the U.S. Attorney's Office in Columbia, SC. In 1986, Judge Herlong was appointed to be a U.S. magistrate in Columbia, SC, where he currently presides.

Mr. President, Judge Herlong brings an impressive background to the U.S. district court. His experience as county councilman, city attorney, assistant U.S. attorney, in private practice and as a U.S. magistrate will serve him well in this position. He is a man of integrity, ability, and keen intellect. As well, the American Bar Association reviewed his professional background and unanimously found Judge Herlong to be well qualified for this position. I believe he possesses the necessary experience and temperament to become an outstanding judge for the district court. Additionally, Judge Herlong has been endorsed by my distinguished colleagues Senator HOLLINGS, Congressman FLOYD SPENCE, and Congressman BUTLER DERRICK.

Mr. President, I strongly support Judge Herlong's nomination and urge his confirmation by the Senate.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

CONGRATULATING SENATOR GEORGE A. SMATHERS

Mr. HARKIN. I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 122, a resolution to congratulate Senator Smathers, submitted earlier today by Senators GRAHAM and MACK.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 122) to congratulate Senator George Armistead Smathers on the occasion of the naming of the George A. Smathers Library at the University of Florida in Gainesville, FL.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 122) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 122

Whereas Senator George Armistead Smathers of Florida was a Member of Congress for 22 years, including 2 terms in the House of Representatives and 3 terms in the Senate;

Whereas, during his 3 terms in the Senate, Senator Smathers served as Secretary to the Democratic Conference, as an Assistant Democratic Floor Leader, as a member of the Democratic Policy Committee, as Chairman of the Senate Democratic Campaign Committee, and as a member of the Senate Committees on Commerce, Finance, and Foreign Relations, and as chairman of the Select Committee on Aging and the Select Committee on Small Business;

Whereas Senator Smathers served his state and his country in the Congress, with dedication and distinction, before retiring at the end of his term in 1969; and

Whereas Senator Smathers served his country in the United States Marines in World War II, and saw duty in the South Pacific; Now, therefore, be it

Resolved, That the Senate congratulates and extends its best wishes to Senator George Armistead Smathers on the occasion of the tribute being paid to him in the naming of the George A. Smathers Library by his alma mater, the University of Florida, in Gainesville, Florida.

Mr. HARKIN. I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SPECIAL OLYMPICS TORCH RELAY

Mr. HARKIN. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of Senate Concurrent Resolution 34, a concurrent resolution authorizing the 1991 Special Olympics Torch Relay, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee is discharged. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 34) authorizing the 1991 Special Olympics Torch Relay to be run through the Capitol Grounds.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Is there debate? If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 34) was agreed to, as follows:

S. CON. RES. 34

Resolved by the Senate (The House of Representatives concurring),

SECTION 1. AUTHORIZATION OF RUNNING OF SPECIAL OLYMPICS TORCH RELAY THROUGH CAPITOL GROUNDS.

On May 17, 1991, or on such other date as the Speaker of the House of Representatives

and the President pro tempore of the Senate may designate jointly, the 1991 Special Olympics Torch Relay may be run through the Capitol Grounds, as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics spring games at Gallaudet University in the District of Columbia.

SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.

The Capitol Police Board shall take such actions as may be necessary to carry out section 1.

SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.

The Architect of the Capitol may prescribe conditions for physical preparations for the event authorized by section 1.

Mr. HARKIN. I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMERGENCY MEDICAL SERVICES WEEK

Mr. HARKIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 109, a joint resolution designating the week of May 12, 1991 and 1992, as "Emergency Medical Services Week"; that the Senate proceed to its immediate consideration; that the joint resolution be deemed read a third time and passed; that the preamble be agreed to; and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 109) was considered, ordered to be engrossed for a third reading, deemed read the third time, and passed.

Mr. DIXON. Mr. President, the week of May 12-18, 1991, has been designated as "Emergency Medical Services Week," and I am delighted to be afforded the opportunity to recognize the heroic men and women who have dedicated their lives to this important field.

During this week, we should all stop to express our gratitude to the emergency physicians, nurses, medical technicians, paramedics, emergency dispatchers, and firefighters who have improved our well-being and have often made the difference in life and death situations.

Emergency medical service professionals will be offering yet another service during this week. In addition to extending care in emergency and trauma situations as they do on a daily basis, they will also offer educational and self-help services in first aid and preventive health care.

All Illinoisans and all Americans join me in saluting emergency medical service professionals and the outstanding contribution they make to the health and welfare of the citizens and

communities they serve throughout Illinois and the Nation.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC SERVICE RECOGNITION WEEK

Mr. STEVENS. Mr. President, this week, May 6 through 12, has been designated as "Public Service Recognition Week." This is our opportunity to acknowledge the services provided by employees at all levels of government in our country.

I believe all public employees deserve our respect, and we should praise them when they have done a good job. Each and every one of them at all levels of government contribute to the quality of life for the American public in their own way.

For example, Government scientists, many of whom forgo higher salaries and compensation in the private sector, conduct vital research for the benefit of all of us. Federal employees work hard to make sure that benefit checks are received on time for those that are entitled to them. Civil servants constantly monitor our Nation's weather patterns and provide early warning to each of us that protects our lives and our property. And, as we all know, our military people risk, in some cases they have just recently given, their lives in support of world peace. They, too, are public employees.

State government employees provide similar vital services. Employees monitor State occupational licensing procedures to protect us from fraud. State departments of education provide for the instruction and the scheduling of instruction for our young people, and public assistance is made available to those in need with the help of State government employees and local employees.

Let us not forget those local employees. Among them are police department employees, those who maintain our parks and our recreation, the fire department, our school teachers and their administrators, librarians, public transportation people. All of these public employees serve us all and deserve our recognition. This is the week to give them thanks.

Mr. President, so often we tend to take these contributions for granted until something goes wrong. Too often it does go wrong, and these are the people who work. They work through the night in periods of earthquakes and storms; they work through the night at

our public hospitals; and they work through the night and long days when they serve in the desert in support of world peace.

Mr. President, this is the week again to thank public employees all over the Nation for their contributions to their fellow citizens. I urge the Senate to take this into account, and to recognize public employees, and that Senators do the same thing as they return to their homes this weekend.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, as Senators know, there has been a substantial amount of flooding and other natural disasters in the Southeast that have caused some very serious problems to the agriculture sector. We have been particularly concerned about the emergency loan program that is administered by the Farmers Home Administration. Particularly we are concerned as to whether or not the program is sufficient to deal with some of the emergencies and disasters that have been experienced and are still occurring.

As a matter of fact, on April 26, our Agriculture Appropriations Subcommittee had a hearing, at which time we received testimony from the new Secretary of Agriculture Edward Madigan. We discussed the \$600 million emergency loan program that is designed to provide disaster benefits and assistance for farmers, but the experience that we have had so far is that the regulations are so tightly drawn and are administered in such a way that it is very difficult for farmers to qualify for any disaster loan money.

At the time of the hearing, one of our committee members, I think it was the distinguished Senator from Arkansas [Mr. BUMPER] pointed out that only \$38 million in loans had been obligated under that authority. While there had been tremendous losses sustained, and we assume many were eligible for those loans, nonetheless they were having a great deal of difficulty getting access to those funds. Since then, I think another \$12 million in loan funds have been obligated.

The point is we keep hearing that you almost have to prove that you do not need a loan in order to be eligible for one. There are very stringent provisions under the current administration's program that require so-called nonessential assets to be liquidated or disposed of by the disaster victim before eligibility can be established. Therefore, an individual must be des-

titute to qualify for a loan under the program as it is understood now.

We have made progress, I am happy to say, in discussing some changes in the administration's approach with the Secretary and his staff and with officials at the Office of Management and Budget. I am happy to report to the Senate that specific changes in existing regulations have been agreed to. One of the changes which will be implemented immediately addresses the method of computation for losses of an individual crop on a farm. For example, under current requirements, a 30-percent crop loss for a farm must be sustained in order for a borrower to be eligible for this type of loan, and it is computed on an enterprise basis.

Under the change, a 30-percent loss on a cotton crop would qualify even if other crops on the farm had normal yields. That change in the current regulation will be very helpful in trying to establish eligibility for this emergency loan in many cases.

Another specific change offered by the administration is the elimination of the requirement that a borrower sell all nonessential assets. The new regulation will only require the assets to be pledged as security for the repayment of the loan.

There may be other changes that can be made as we continue to monitor the administration of this disaster assistance program. We may also find that the disasters that are occurring may be much more serious than previously contemplated. If the new changes in the emergency loan program are not successful in meeting the existing disaster needs, it may be, Mr. President, that the next time we have an appropriations bill before the Senate, language could be included to provide additional disaster assistance to our Nation's suffering farmers.

I am hopeful that the administration, by showing a willingness to make these changes, will administer the program in a sensitive and responsive way so that disaster victims are able to get the benefits that were authorized by Congress. It is my desire that these benefits be made available in disaster situations such as those that we see in my State right now and in many other States as well.

Mr. President, I ask unanimous consent that a copy of their letter to which I have referred from the Secretary of Agriculture, Edward Madigan, to me, dated May 9, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC., May 9, 1991.

Hon. THAD COCHRAN,
U.S. Senate, Washington, DC.

DEAR THAD: In response to your concerns about the Farmers Home Administration (FmHA) Emergency Loan (EM) program and its ability to cope with disaster related

emergencies, I am directing FmHA to amend the following provisions in the EM program:

1. Currently the 30 percent loss is computed on an enterprise basis. An enterprise is identified as: A. All cash field crops; B. Fruits and nuts; C. Feed crops (hay and pasture); D. All cash vegetable crops.

We would change the requirement to compute the loss on an individual crop. Example: 30 percent losses on a cotton crop would qualify even if other crops on the farm had normal yields.

2. Eliminate the requirement that the borrower sell all nonessential assets and only require that they be pledged as security.

I am directing FmHA to implement these regulations as soon as possible.

I will continue to explore with you additional steps that might be taken to further open the EM program to farmers who have experienced a disaster. Also, I am directing FmHA to review rejected EM loan applications and share with your office the reasons for those rejections.

Sincerely,

EDWARD MADIGAN,
Secretary.

Mr. COCHRAN. Mr. President, I thank the Senate. I thank the Chair for the time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized.

Mr. SEYMOUR. Mr. President, I would like to associate myself with the remarks of Senator COCHRAN.

Although the goal is laudable to provide assistance and food to Kurdish refugees, and I want to say that I am sympathetic to their plight, we have needs here at home, needs in California.

California was devastated by a severe freeze last December. That freeze resulted in over \$1 billion worth of agricultural crop damage. That, in turn, resulted in the unemployment of thousands of California farmworkers. And today, months later, these unemployed farmworkers are having a tough time feeding their families. And until the President took recent action—for which I sincerely thank him in providing rent and mortgage assistance, they were destitute. Secretary Madigan has also helped by providing food supplements for these unemployed farmworkers.

Mr. President, I would like to see these farmworkers get back to work. The way they can get to work is if we can get the farmers back to planting or replanting trees which were lost due to the freeze. They cannot do that without disaster assistance.

I respect Senator COCHRAN for his efforts, and I join him in sending a message loud and clear that disaster assistance is desperately needed.

In many counties throughout California central valley, the unemployment rate is more than 20 percent, and in some areas there is as much as a 50-percent unemployment rate. We must help these people.

Therefore, I am hopeful that soon we will get some help in the way of loans and grants to those farmers who have been so hard hit and they, in turn, will be able to help these unemployed farmworkers in California. I am hopeful we can find a way to do that. If not, I suspect the next appropriation bill that comes this way may be the opportunity to meet their needs as we are meeting the needs of the Kurdish refugees.

Mr. President, I thank you and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

KANSAS TORNADOS

Mr. DOLE. Mr. President, I regret any delay caused in the consideration of this supplemental and for any inconvenience my colleagues have experienced due to that delay.

However, just over a week ago, about 10 days now, several tornados ripped through large areas of Kansas and Oklahoma. First, I want to commend the Federal Emergency Management Administration and other Federal agencies for their quick and competent response to the immediate needs of the citizens of Kansas. In addition, I certainly want to commend the Salvation Army, the Red Cross, and many other private organizations and private individuals who came to the aid of literally hundreds and hundreds of people in Kansas, Oklahoma, and other areas because of the tornadoes.

However, in addition to those immediate concerns, we also have the responsibility to determine how to best assist the serious long-term needs of the communities hit. These include such basic necessities as the replacement of housing and schools and, in the case of McConnell Air Force Base, its hospital.

I might add, in addition, the first assessment of McConnell Air Force Base is around \$62 million in damage, and that could go much higher.

Of course, the school, which is not part of McConnell but part of Derby School District, was almost totally demolished, and that is another urgent and important matter.

While the needs of individuals are currently being met by FEMA, funds for schools and roads and similar damages, including some cemeteries, per-

haps churches, are not available for Kansas and other States which have experienced earlier natural disasters.

It is because of this concern that I asked the consideration of the bill be delayed until I had the opportunity to speak with representatives of the administration, especially the Office of Management and Budget, FEMA, and the Department of Defense, to be assured that adequate funds would be requested in the very near future.

I have had discussions with my colleague from Kansas, Senator KASSEBAUM, Senators NICKLES and BOREN from Oklahoma, and the distinguished majority leader, Senator MITCHELL, whose home State of Maine was hard hit by ice damage earlier this year. We want to assure citizens of the United States who have suffered due to natural disasters that they are being provided for.

Following several hours of discussions with the administration, I have been assured a request for additional funds for FEMA will be forthcoming in the very near future. These funds will guarantee that the needs of these communities and these disaster areas will be taken care of. These funds will cover schools and hospitals, removal of debris, road repair, and other needs. I will not attempt to list them all, but all the other needs that follow under public assistance.

I can say to my colleagues, who have been waiting for these funds, that I have that assurance.

Further, in the town of Andover, KS, several residents were killed when the tornado ripped through this community. Unfortunately, the warning system, that had been successfully tested just weeks before, failed to operate. The director of FEMA assured me that approval will be given to a request for two new warning alarms, so that the tragic situation will not happen again.

As well, if there is an immediate need for a warning system, FEMA will temporarily move necessary alarms to the community until the new system is up and operating.

Finally, the Department of Defense has assured me it will find the necessary funds for replacement or repair at McConnell Air Force Base out of existing funds this year, or will request those funds in the FEMA supplemental which we expect in the next few weeks.

Mr. President, I certainly understand the urgency of the supplemental that will be before us. I believe it should be passed. I think all of us support the request for Kurdish aid, but we did want to make certain, as we have, I think, that we would be fully protected in any future action, and to make certain we had an understanding with the Office of Management and Budget, FEMA, the Defense Department, and any other Federal agencies we might be dealing with because of the disasters in the States of Kansas, Oklahoma, Maine, or

any other State which may have suffered natural disasters recently.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDENT OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL

Mr. LEAHY. Mr. President, I understand we may soon have and hopefully will soon have the emergency supplemental appropriations bill on the floor for refugee relief and other matters. If indeed we are to have that before us before very long, then I believe, among others, congratulations are due to the distinguished chairman of the Appropriations Committee.

I will have, I would note, more to say later on. I took the floor at this point because it appeared we were just going to have another quorum call. But now I see the distinguished chairman coming to the floor, heralded by all.

If I might have the distinguished chairman's attention, Mr. President, if the chairman was going to be seeking the floor on this matter, then I will put in a quorum call because I have a number of things I want to say but I will hold them until later.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate on May 9, 1991, during the recess of the Senate, received a message from the House of Representatives announcing that the House disagrees to the amendments of the Senate to the concurrent resolutions (H. Con. Res. 121) revising the congressional budget for the U.S. Government for the fiscal year 1991 and setting forth the congressional budget for the U.S. Government for the fiscal years 1992, 1993, 1994, 1995, and 1996; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. PANETTA, Mr. GEPHARDT, Mr. OBERSTAR, Mr. GUARINI, Mr. DURBIN, Mr. ESPY, Mr. KILDEE, Mr. BEILENSEN, Mr. HUCKABY, Mr. SABO, Mr. GRADISON, Mr. McMILLAN of North Carolina, Mr. THOMAS of California, Mr. ROGERS, Mr. ARMEY, and Mr. HOUGHTON as managers of the conference on the part of the House.

MESSAGES FROM THE HOUSE

At 1:43 p.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 7. An act to amend title 18, United States Code, to require a waiting period before the purchase of a handgun;

H.R. 479. An act to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System; and

H.R. 2251. An act making dire emergency supplemental appropriations from contributions of foreign governments and/or interest for humanitarian assistance to refugees and displaced persons in and around Iraq as a result of the recent invasion of Kuwait and for peacekeeping activities, and for other urgent needs for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that pursuant to the provisions of section 2553(a)(2) of Public Law 101-647, the Speaker appoints the following individuals from private life as members of the National Commission on Financial Reform, Recovery, and Enforcement on the part of the House: Mr. Elliott H. Levitas of Atlanta, GA; Mr. Andrew F. Brimmer of Washington, DC; and Mr. John William Snow of Richmond, VA.

ENROLLED JOINT RESOLUTION SIGNED

At 2:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 154. Joint resolution designating the month of May 1991, as "National Foster Care Month."

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 479. An act to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System; to the Committee on Energy and Natural Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

William Harold Albritton III, of Alabama, to be U.S. district judge for the Middle District of Alabama;

Marilyn L. Huff, of California, to be U.S. district judge for the Southern District of California;

Wm. Fremming Nielsen, of Washington, to be U.S. district judge for the Eastern District of Washington;

Frederick L. Van Sickle, of Washington, to be U.S. district judge for the Eastern District of Washington;

Henry M. Herlong, Jr., of South Carolina, to be U.S. district judge for the District of South Carolina;

Richard D. Bennett, of Maryland, to be U.S. attorney for the District of Maryland for the term of 4 years;

Harry A. Rosenberg, of Louisiana, to be U.S. attorney for the Eastern District of Louisiana for the term of 4 years;

Michael Chertoff, of New Jersey, to be U.S. attorney for the District of New Jersey for the term of 4 years;

Willie Greason, Jr., of Missouri, to be U.S. marshal for the Eastern District of Missouri;

Jose R. Mariano, of Guam, to be U.S. marshal for the District of Guam and concurrently U.S. marshal for the District of the Northern Mariana Islands for the term of 4 years;

Larry J. Joiner, of Missouri, to be U.S. marshal for the Western District of Missouri;

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced read the first and second time by unanimous consent and referred as indicated:

By Mr. BINGAMAN:

S. 1018. A bill to establish and measure the Nation's progress toward greater energy security; to the Committee on Energy and Natural Resources.

By Mr. RIEGLE (for himself, Mr. GARN, and Mr. KERRY) (by request):

S. 1019. A bill to strengthen Federal supervision regulation and examination of foreign bank operations in the United States to enhance cooperation with foreign banking supervisors to improve reporting of bank stock loans and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. HELMS:

S. 1020. A bill to make available non-discriminatory (most favored nation) trade treatment to the People's Republic of China only if certain conditions are met; to the Committee on Finance.

By Mr. MCCAIN:

S. 1021. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of long-term care insurance and accelerated death benefits, and for other purposes; to the Committee on Finance.

By Mr. HELMS:

S. 1022. A bill to extend the existing suspension of duty on 4 Chloro 3 methylphenol; to the Committee on Finance.

By Mr. GRAHAM:

S. 1023. A bill to authorize additional appropriations for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center; to the Committee on Labor and Human Resources.

By Mr. SPECTER:

S. 1024. A bill to extend the temporary suspension of the duty on triethylene glycol dichloride; to the Committee on Finance.

S. 1025. A bill to suspend temporarily the duty on certain chemicals and for other purposes; to the Committee on Finance.

S. 1026. A bill to restore until January 1, 1995, the rate of duty on myclobutanil that was in effect under the Tariff Schedules of the United States on December 31, 1988; to the Committee on Finance.

By Mr. HELMS:

S. 1027. A bill to extend until January 1, 1995, the existing suspension of duty on m Toluic acid; to the Committee on Finance.

By Ms. MIKULSKI (for herself and Mr. ADAMS):

S. 1028. A bill to authorize increased funding for international population assistance and to provide for a United States contribution to the United Nations Population Fund; to the Committee on Foreign Relations.

By Mr. WIRTH (for himself and Mr. BROWN):

S. 1029. A bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GORTON:

S. 1030. A bill to authorize private sector participation in providing products and services to support Department of Energy defense waste cleanup and modernization missions; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S. 1031. A bill to establish a Directorate for Behavioral and Social Sciences within the National Science Foundation, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DANFORTH (for himself, Mr. LIEBERMAN, Mr. KASTEN, Mr. GRASSLEY, Mr. MCCAIN, Mr. JOHNSTON, Mr. BOND, Mr. GARN, Mr. MACK, Mr. COCHRAN, Mr. SMITH, Mr. LOTT, Mr. CRAIG, Mr. MCCONNELL, Mr. GORTON, Mr. SEYMOUR, and Mr. D'AMATO):

S. 1032. A bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of economically distressed areas designated as enterprise zones by providing Federal tax relief for employment and investments, and for other purposes; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. INOUE):

S. 1033. A bill to amend chapter 53 of title 10, United States Code to provide for members of the National Guard members of the Coast Guard, ROTC, cadets, and veterans to perform honor guard functions at funerals of members of the Armed Forces of the United States and veterans, and for other purposes; to the Committee on Armed Services.

By Mr. HOLLINGS (for himself, Mr. GORE, Mr. BENTSEN, Mr. KERRY, Mr. BREAUX, and Mr. ROBB):

S. 1034. A bill to enhance the position of U.S. industry through the application of the results of Federal research and development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON (for himself, Mr. LEAHY, Mr. HATCH, Mr. DECONCINI, Mr. KENNEDY, Mr. KOHL, and Mr. BROWN):

S. 1035. A bill to amend section 107 of title 17, United States Code relating to fair use with regard to unpublished copyrighted works; to the Committee on the Judiciary.

By Mr. SANFORD (for himself, Mr. SIMON, Mr. SHELBY, Mr. FORD, Mr. JEFFORDS, Mr. PELL, and Mr. AKAKA):

S. 1036. A bill to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. MURKOWSKI (for himself and Mr. JEFFORDS):

S. 1037. A bill to amend the Immigration and Nationality Act to revise certain health requirements regarding the admission of certain disabled veterans and to revise the period of active military service required for a veteran to qualify for naturalization; to the Committee on the Judiciary.

By Mr. CHAFFEE:

S. 1038. A bill to amend the Solid Waste Disposal Act to encourage recycling of waste

tires and to abate tire dumps and tire stockpiles and for other purposes; to the Committee on Environment and Public Works.

S. 1039. A bill to amend the Internal Revenue Code to impose a tax on tires and for other purposes; to the Committee on Finance.

By Mr. GLENN (for himself, Mr. LEVIN, Mr. KOHL, and Mr. LIEBERMAN):

S. 1040. A bill to provide a Governmentwide comprehensive energy management plan for Federal agencies; to the Committee on Governmental Affairs.

By Mr. ADAMS (for himself and Mr. GORTON):

S. 1041. A bill to designate the Washington Outer Coast National Marine Sanctuary, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON (for himself, Mr. WOFFORD, Mr. PELL, Mr. SIMON, Mr. DECONCINI, Mr. ROCKEFELLER, and Mr. BOREN):

S. 1042. A bill to amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal years 1992 and 1993 and to establish a Peace Corps foreign exchange fluctuations account; and for other purposes; to the Committee on Foreign Relations.

By Mr. SHELBY:

S.J. Res. 142. Joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week"; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself and Mr. DIXON):

S.J. Res. 143. Joint resolution to designate the week of August 4 through August 10, 1991, as the "International Parental Child Abduction Awareness Week"; to the Committee on the Judiciary.

By Mr. D'AMATO:

S.J. Res. 144. Joint resolution to designate May 17, 1991, as "National Hero Remembrance Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read and referred (or acted upon), as indicated:

By Mr. GRAHAM (for himself and Mr. MACK):

S. Res. 122. Resolution to congratulate Senator George Armistead Smathers on the occasion of the naming of the George A. Smathers Library at the University of Florida in Gainesville, Florida; considered and agreed to.

By Mr. KASTEN:

S. Res. 123. Resolution relating to State taxes for mail order companies mailing across State borders; to the Committee on Finance.

By Mr. MURKOWSKI:

S. Res. 124. Resolution to honor Andris Slapins; to the Committee on Foreign Relations.

By Mr. GLENN:

S. Con. Res. 35. Concurrent resolution expressing the sense of the Congress that the awarding of contracts for the rebuilding of Kuwait should reflect the extent of military and economic support offered by the United States in the liberation of Kuwait; to the Committee on Foreign Relations.

By Mr. AKAKA (for himself, Mr. ADAMS, Mr. BURDICK, Ms. MIKULSKI, Mr. SARBANES, and Mr. ROBB):

S. Con. Res. 36. Concurrent resolution thanking and commending this Nation's Fed-

eral civilian employees for their contributions to Operation Desert Shield and Operation Desert Storm; considered and agreed to.

By Mr. KERRY (for himself, Mr. PELL, Mr. PACKWOOD, Mr. LIEBERMAN, and Mr. DODD):

S. Con Res. 37. Concurrent resolution calling for a U.S. policy of strengthening and maintaining indefinitely the current International Whaling Commission moratorium on the commercial killings of whales and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale, dolphin, and porpoise populations; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1018. A bill to establish and measure the Nation's progress toward greater energy security; to the Committee on Energy and Natural Resources.

ENERGY GOALS ACT OF 1991

Mr. BINGAMAN. Mr. President, events in the Gulf in past months have highlighted the need to reduce our reliance on foreign oil. There is a consensus in this country that we need greater energy security. Unfortunately, we have yet to agree upon how to design an energy policy to achieve that end. One reason is the failure to articulate a set of specific goals. Unambiguous goals are vital to a national energy policy. Without goals, there is no real consensus, no framework around which to build a cohesive plan, no measure of progress. The administration's national energy strategy certainly fails in this regard. Mr. President, I rise today to introduce legislation that will establish those national energy goals.

THE NEED FOR ENERGY GOALS

The administration's national energy strategy document discusses general objectives, namely, ensuring the availability of adequate energy at reasonable prices, protecting the environment, maintaining a strong economy, and reducing our dependence on unreliable energy suppliers. I applaud these objectives—they are important and worthy, but they are not enough. We need concrete, measurable goals. The administration's energy document instead offers projections. Mr. President, there is a critical difference between mere projections and effective goals. That difference can be summed up in a word—"commitment." When goals are set, the desired outcome is defined. Goals are not constraints, but rather they provide direction. It is interesting that the administration's national energy strategy purports to provide a roadmap to a more secure and cleaner energy future. However, it is difficult to determine whether that roadmap is the right one when the destination is unknown. Mr. President, this country needs to know not where we might be with respect to our energy future, but

where we should be. Goals tell us what we want the destination to be. Only when the goals have been agreed upon, can appropriate strategies for achieving them be developed.

With the administration's plan, the strategy came first. In the words of the administration, the cornerstone of the President's energy policy is "reliance on the market to determine prices, quantities, and technology choices." But if we simply rely on the market, we abdicate our responsibility to set our policy course, and open our energy future to the whims and vagaries of the marketplace. We cannot tolerate blind allegiance to free market economic philosophy. The result of the following this approach is painfully evident in the ever-increasing dependence on foreign oil in the last decade. We have gone from importing less than 30 percent of our oil in the early 1980's to 50 percent in 1990. There is no reason to expect market forces to reverse the growing reliance on foreign oil. It is folly to allow market forces alone to determine our national energy policy.

The Energy Goals Act of 1991 lays out broad goals for the next 20 years which can serve as the underpinning for a comprehensive energy strategy. These goals are not absolutes. Evolving economic realities and/or technological advances may require some adjustment in the goals in the future. This legislation includes periodic assessments of progress and allows for adjustments. Nevertheless, I expect the broad directions will remain the same. In implementing the Energy Goals Act, we will have to make changes in our energy consumption patterns. Making changes will not cause a reduction in the quality of our lives as some will claim; to the contrary, well-chosen options will enhance the economy and our environment as we make greater use of domestic and cleaner energy resources.

THE ENERGY GOALS

There are three complementary goals in the Energy Goals Act of 1991:

The first, and overall, goal is to reduce oil imports. The only way to accomplish this is to reduce total oil consumption in this country. Specifically, the percentage of domestic oil consumption should be reduced from the current level of 40 percent of the U.S. energy mix to 33 percent by 2010. A concurrent goal will be to keep foreign imports to less than 50 percent of oil consumption.

Today foreign oil represents 50 percent of the oil this country consumes. Ideally we will reduce this percentage, but it may be unrealistic to expect to reduce the percentage significantly. The reasons are many—the expanding energy demands of a growing economy, dwindling domestic oil reserves, continuing low world oil prices, and simply the time required to alter energy consumption patterns. What we cannot tolerate is for that percentage to grow

to 60 or 70 percent, or more. Even limiting imports to 50 percent, the total number of barrels imported may be substantial. To minimize the risk of possible major supply disruptions, we also must make a concerted effort to diversify our sources of imported oil.

The second goal is to increase energy efficiency of the economy over 1990 levels by 20 percent in 2000 and 40 percent in 2010. Over the last several decades, this country has made tremendous strides in improving energy efficiency. This trend can and should continue. Findings by the Office of Technology Assessment show that a 2-percent per annum increase in energy efficiency is well within our current capability and can be done with existing technologies.

The third goal is to reduce the level of carbon intensity of our energy mix, principally through expanded reliance on renewable energies such as solar, wind, geothermal, biomass and so forth. We highlight renewable energies because without specific goals and a real commitment to accelerate their development, these technologies will continue to be principally exported, rather than domestic, technologies. We must turn this around. My bill calls for the percent of the energy mix accounted for by renewable energies to increase from its 8 percent share today to 14 percent by the end of 2010.

In seeking to reduce the carbon intensity, we recognize there are environmental concerns relating to energy policy and we take precautionary measures with respect to the possibility of human-induced climate change. Contributions to carbon reduction can be realized from many endeavors and, while it is not necessary to set specific targets in these areas, our energy policies must encourage pursuit of such activities. This includes, among others, making greater use of natural gas, advancing electric vehicle technology, and making energy production processes more efficient.

CONCLUSION

Our past attempts at forging a national energy policy have been characterized by crisis policy making and crash programs. When the crisis of the day went away, so did the commitment to energy policy. In many cases, the crash programs did just that: they crashed.

This time we must acknowledge up front that there are no silver bullets. We cannot solve our energy problems overnight. If we are to turn around our undesirable energy situation, we must establish long-term energy goals and adhere to them. We need the discipline to stay the course through crisis and calm, through periods of high energy prices and low energy prices. The energy goals that I propose today will give us the framework to do just that.

The energy goals in this bill are realistic, complementary, and consistent with environmental objectives. While

the bill does not dictate the exact paths by which the goals are to be reached, the nature of the goals will not permit business as usual. To attain them will require aggressive action, innovative implementation, and a commitment to see it through. If we are to remain strong and economically independent, this country cannot afford not to make the necessary commitment.

I urge my colleagues to join me in support of this legislation.

I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1018

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Energy Goals Act of 1991".

SEC. 2. FINDINGS AND GOALS.

The Congress finds that—

(a) petroleum imports threaten national security, the inefficient use of energy resources increases energy U.S. vulnerability to shortages and reduces international economic competitiveness, and unchecked anthropogenic carbon release may threaten the global environment;

(b) a comprehensive national energy policy is needed to overcome these threats;

(c) such a comprehensive national energy policy must achieve the following goals:

(1) reduce oil imports;

(2) increase energy conservation and efficiency;

(3) decrease the degree of carbon intensity of the domestic energy mix through a variety of strategies including, but not limited to, greater reliance on hydrogen-rich fuels and renewable energy resources.

(d) The establishment of long-term energy policy objectives is necessary to focus and sustain a national effort toward achieving these goals, and thereby achieving national energy security in an environmentally responsible manner.

Therefore, Congress establishes the following national energy policy objectives and requires regular reports to the Congress on the Nation's progress toward achieving such goals.

SEC. 3. ENERGY OBJECTIVES.

In pursuing the above goals, the United States should achieve the following specific national energy objectives:

(a) REDUCED OIL CONSUMPTION.—

(1) Oil consumption should be reduced from the 1990 level of approximately 40 percent of the total United States energy resource consumption to 39, 37, 35, and 33 percent in 1995, 2000, 2005, and 2010, respectively;

(2) Annual net oil imports should not exceed 50 percent of United States oil consumption.

(b) INCREASED ENERGY EFFICIENCY.—The energy efficiency, as distinct from energy intensity, of the nation's economy should be increased by 2 percent per year over the 1990 levels (or 10, 20, 30, and 40 percent in 1995, 2000, 2005, and 2010, respectively).

(c) INCREASED UTILIZATION OF RENEWABLE ENERGY.—The portion of the energy consumption represented by renewable energy sources should increase from the 1990 level of approximately 8 percent to 9, 10, 12, and 14 percent in 1995, 2000, 2005, and 2010, respectively.

SEC. 4. REPORTS TO THE CONGRESS.

(a) PRELIMINARY REPORT.—The Secretary of Energy (Hereinafter the "Secretary") shall, within one year after the date of enactment of this Act, submit a report to the Congress setting forth a plan for the achievement of the objectives set forth under this Act including recommendations regarding any additional statutory or budget authority that may be necessary to achieve such objectives. The Secretary also shall determine appropriate measures of energy efficiency for each of the end use sectors and develop plans for acquiring the necessary data; a description of both shall be included in the report. If the Secretary determines that achievement of the objectives set forth under this Act is not practicable, then the Secretary shall state the reasons for that determination and shall propose alternate energy objectives that are in the Secretary's judgment practicable.

(b) REPORTS.—By July 15 of 1996, 2001, 2006, and 2011, the Secretary shall submit to the Congress a report detailing the Nation's progress as of December 31 of the previous year in achieving the objectives set forth in section 3. In all but the final report, the Secretary also shall make recommendations regarding changes in statutory or budget authority as may be necessary in the Secretary's judgment for the timely achievement of the energy objectives set forth in section 3.

By Mr. RIEGLE (by request) (for himself, Mr. GARN, and Mr. KERRY):

S. 1019. A bill to strengthen Federal supervision, regulation and examination of foreign bank operations in the United States, to enhance cooperation with foreign banking supervisors, to improve reporting of bank stock loans, and for other purposes; to the Committee on Banking, Housing, and Urban affairs.

FOREIGN BANK SUPERVISION ENHANCEMENT ACT OF 1991

Mr. RIEGLE. Mr. President, I rise to introduce the Foreign Bank Supervision Enhancement Act of 1991, a bill designed to strengthen the regulation, supervision and examination of branches and agencies of foreign banks operating in this country. Recent revelations about serious violations of our laws by foreign banks' U.S. operations raised concerns in my mind about the adequacy of our country's oversight of foreign banking operations. These concerns led me to write to Chairman Greenspan, Attorney General Thornburgh and Comptroller General Bowsher on March 25 seeking their recommendations to improve our system for regulating foreign banks and providing stronger enforcement of these laws. I am including copies of those letters in the RECORD.

Today, in response to that March letter, Chairman Greenspan sent me the Federal Reserve Board's recommendations to strengthen the regulation and supervision of foreign banks in the United States. His reply to my March 25 letter will be included in the RECORD as well. I, along with Senator GARN and other of our colleagues, are introduc-

ing, by request, the bill drafted and recommended to us by the Federal Reserve Board. I can tell you that many of the recommendations in this bill make sense to me. For example, the legislation would require Federal Reserve Board approval of applications to establish both Federal and State licensed foreign bank branches and agencies in the United States; would specify statutory criteria for such Federal approval; would require that the Board be given access to any information necessary to make informed decisions on such applications; would permit the Board to revoke those licenses when serious violations of law have occurred; would grant the Board more authority over the examination of foreign bank branches and agencies; and require foreign banks to report to the Board any loans they make secured by the stock of a U.S. bank.

The Banking Committee's Subcommittee on Consumer and Regulatory Affairs, chaired by Senator DIXON, will hold a hearing on these proposals and related issues on May 23. We will be looking for comments on this and other proposals to strengthen the regulation of foreign banks in this country. Soon after that hearing, we intend to begin putting into final form our legislation to accomplish that objective.

NEED FOR LEGISLATION

Presently, there are approximately 580 foreign bank branches and agencies operating in the United States and they control over \$600 billion in assets. The present Federal framework for regulating foreign banks in this country is set forth in the International Banking Act of 1978. That legislation, we now see, is imperfect and has resulted in a patchwork system of State and Federal regulation of foreign bank branches and agencies with loopholes that some foreign banks have exploited. Under the 1978 statute, Federal regulators lack powers necessary to properly oversee operations of foreign banks. The recent cases of serious criminal activities conducted by foreign banking entities in violation of U.S. laws and in contradiction of major U.S. foreign policies illustrate some of the weaknesses in this regulatory structure.

For example, the case of Bank of Commerce and Credit International [BCCI] raises questions about the criteria used for approval of foreign banking operations in this country, and the quality and frequency of examinations of such entities by bank regulators. In January 1990, BCCI, a State licensed agency, pled guilty to running a major money laundering operation in this country and paid the highest penalty in a money laundering case to date—\$14 million. Senior management officials of BCCI are alleged to have actively and intentionally encouraged the solicitation of deposits which were the profits of illegal activities, includ-

ing those of General Manuel Antonio Noriega. Among the many regulatory issues involved in the BCCI case are the following: What criteria did State authorities apply in granting a license to a foreign bank with no home country, a suspicious reputation, and an extremely complex worldwide holding company structure designed to camouflage its intricate operations? Moreover, why didn't bank regulators identify such pervasive money laundering activities during their examinations of BCCI?

More recently, legal actions taken by the Federal Reserve Board have confirmed allegations that BCCI has an ownership interest in Credit and Commerce America Holdings [CCA], a U.S. bank holding company which owns 8 banks with 297 branches, operates in 6 States and the District of Columbia, and controls approximately \$11 billion in assets. BCCI and CCA entered into consent decrees with the Federal Reserve Board requiring BCCI to divest its ownership interest in First American Bank and its affiliates, and to cease all its banking operations in the United States. Yet, in 1981, the Federal Reserve Board approved the acquisition of the holding company by a group of investors with close ties to BCCI amid allegations that BCCI was behind the acquisition. On May 6 of this year, the Board issued another order requiring BCCI to divest yet another secret ownership interest—this time, in Independence Bank in Encino, CA. This raises questions about the Federal Reserve Board's ability to act intelligently on applications for investment by foreign individuals or banks when the Board has no way of compelling the provision of adequate information to verify representations made by those applicants. The legislation we are introducing today is designed to cure this shortcoming.

The second major case of serious criminal activities conducted by a foreign bank branch or agency involved Banca Nazionale del Lavoro [BNL]. BNL employees of a State-chartered agency of the Italian bank secretly approved approximately \$3 billion in illegal loans and letters of credit to Iraq, in direct contradiction to U.S. foreign policies. BNL allegedly only reported a fraction of this amount to State and Federal regulatory agencies. In addition, BNL failed to report at least \$1.8 billion in funds borrowed in world markets to fund its secret loans to Iraq. It is my belief that more frequent and thorough examinations of foreign entities operating in this country will help prevent such activities. This legislation will make that possible.

FEDERAL RESERVE BOARD'S PROPOSALS

The Federal Reserve Board's proposal, that I am introducing today, would provide for a more comprehensive regulatory structure for foreign branches and agencies under the cen-

tralized authority of the Federal Reserve Board. The International Banking Act of 1978 granted general oversight to the Federal Reserve for foreign banking operations, but failed to give the Board the necessary tools to effectively regulate those entities.

This bill would require prior Federal Reserve approval of the establishment of all foreign bank State branches and agencies. Under current law, foreign banks can choose either a Federal or a State license for branches and agencies under the existing regulatory structure. Most foreign banks seek State licenses. According to December 1990 Federal Reserve Board statistics, of the 580 foreign bank branches and agencies operating in the United States, 81 percent are State licensed and control approximately 93 percent of total assets of foreign branches' and agencies' in the United States. That amounts to \$626 billion of assets. Most major industrial countries require some approval at the national level—by the national government or central bank—for foreign banks to establish branches in their countries. If enacted into law, the Federal Reserve Board's proposal would not prevent foreign banks from seeking State licenses, but would require Federal approval in addition to a State license.

The legislation also would specify uniform standards for approving or denying applications of foreign banks. For example, the Board could consider whether the foreign bank is subject to comprehensive supervision by regulatory authorities in its home country, whether the foreign bank meets required capital standards, and whether the bank has strong and experienced management in its foreign and U.S. operations. Moreover, the proposal would amend the Bank Holding Company Act to allow the Board to deny applications unless the Board is given access to all the information it needs to administer its supervisory functions and other responsibilities under that act.

The bill, in addition, would authorize the Board to terminate licenses of foreign banks, State branches, agencies and commercial lending companies and to recommend termination of Federal licenses to the OCC. Such termination could be based on any civil or criminal violation of law, unsafe banking practices, or the maintenance of inadequate management in its U.S. offices. Procedural safeguards would provide a foreign bank with due process before licenses are terminated. The legislation also would grant the Board authority to supervise and coordinate the timing of examinations of all U.S. offices of the same foreign bank and to commence any examinations at a time determined by the Board.

Finally, the legislation would require foreign banks to report certain loans secured by bank stock. Currently, any federally insured depository institution

must report to a bank regulatory agency when it makes a loan secured by 25 percent or more of the voting stock of another insured depository institution. By extending this requirement to foreign banks, situations like BCCI—where BCCI secured control over U.S. banks through bank stock loans—could be prevented.

OTHER MEASURES ADDRESSING REGULATION OF FOREIGN BANK BRANCHES AND AGENCIES

Last year, in response to the BCCI and BNL cases, I worked with several of my colleagues to include provisions in the omnibus crime bill to extend criminal penalties to foreign bank branches and agencies. Many provisions of the criminal code that apply to U.S. banks—such as those dealing with bank fraud, theft, embezzlement, misapplication of funds and bribery—did not apply to foreign banks' U.S. branches and agencies. Those criminal penalties now apply to foreign banks operating in this country.

Also last year, in response to the BCCI and other money laundering activities of banks operating in our country, I worked with several other Senators on the Banking Committee on legislation that increases the penalties for depository institutions and their employees convicted of money laundering, including terminations of bank charters. We passed that legislation in the committee and on the Senate floor, but were unable to get unanimous consent from the Senate to meet with our House counterparts in conference so that we could enact the bill into law. The same legislation was reintroduced this year by Senator KERRY as S. 305 and I joined in cosponsoring it together with Senators D'AMATO, GARN, METZENBAUM, GRAHAM, BRYAN, AND DIXON. I intend to work to get S. 305 passed by the Senate this year.

Since S. 305 was reintroduced, I have learned that it does not specifically address all State licensed foreign bank branches and agencies, that is, those that are not federally insured. Thus, many State licensed, foreign branches and agencies operating in the United States would not be covered by that proposed legislation and could escape its penalties, including termination of licenses.

Therefore, when the Banking Committee considers S. 305, I intend to offer an amendment authorizing the Federal Reserve Board, in effect, to close down State licensed foreign branches and agencies and to remove employees of those entities convicted of money laundering. The amendment would require the Federal Reserve Board to hold a hearing to consider whether to terminate a branch or agency's license when that foreign bank's U.S. branch or agency or a director or senior executive officer of such branch or agency has been convicted of money laundering. The State of Florida eventually did close down BCCI's operations

which had engaged in money laundering in that State but no Federal bank regulatory agency had that authority. Federal regulators must have such authority, and I intend to make sure they do.

The Banking Committee will consider all of these proposals at hearings later this month. I believe there are serious loopholes in our regulatory structure that permit criminals to undermine our banking system and avoid compliance with U.S. laws. I intend for the Banking Committee to actively and immediately review these loopholes and adopt legislation to close them.

I ask unanimous consent that the materials I have referred to, including the bill, a section-by-section analysis and a narrative statement describing the purposes of the bill, be printed in the RECORD in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Bank Supervision Enhancement Act of 1991".

SEC. 2. REGULATION OF FOREIGN BANK OPERATIONS.

"(a) ESTABLISHMENT AND TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end thereof the following new subsections:

"(e) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) PRIOR APPROVAL REQUIRED.—No foreign bank may establish a State branch or a State agency, or acquire ownership or control of a commercial lending company, without obtaining the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under paragraph (1), the Board may take into account:

"(A) whether the foreign bank engages directly in the business of banking outside the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country;

"(B) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(C) the financial and managerial resources of the foreign bank, including its experience and capacity to engage in international banking;

"(D) whether the foreign bank has provided the Board with adequate assurances that it will make available to the board such information on the operations or activities of the foreign bank and any of its affiliates that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, as amended, and other applicable federal banking statutes; and

"(E) whether the foreign bank and its United States affiliates are in compliance with applicable United States law.

"(3) ESTABLISHMENT OF CONDITIONS.—Consistent with the standards for approval in paragraph (2), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(f) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) STANDARDS FOR TERMINATION.—The Board, after notice and opportunity for hearing, may order a foreign bank that operates a State branch or agency or commercial lending company subsidiary in the United States to terminate the activities of such branch, agency or subsidiary if the Board finds that:

"(A) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(B) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, as amended, or the Financial Institutions Supervisory Act of 1966.

"(2) DISCRETION TO DENY HEARING.—The Board may take the action described in paragraph (1) without providing an opportunity for a hearing if it determines that expeditious action is necessary in order to protect the public interest.

"(3) EFFECTIVE DATE OF TERMINATION ORDER.—An order issued under paragraph (1) shall become effective within 120 days of its issuance or such longer time period as the Board may direct.

"(4) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank required to terminate activities conducted at offices or subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) RECOMMENDATION TO COMPTROLLER FOR TERMINATION OF A FEDERAL BRANCH OR AGENCY.—The Board may recommend to the Comptroller termination of the license of a Federal branch or Federal agency of a foreign bank whenever the Board has reasonable cause to believe that such foreign bank or any affiliate thereof has engaged in conduct that would warrant termination of the activities of a State branch or State agency of a foreign bank under standards for termination set forth in paragraph (1). The Comptroller may act in response to such recommendation in accordance with the provisions of section 4(i) of this Act.

"(6) ENFORCEMENT OF ORDERS.—The Board, or the Comptroller in connection with an order issued under section 4(i) of this Act, may in its discretion apply to any United States district court within a jurisdiction in which any office or subsidiary of the foreign bank against which the Board or the Comptroller has issued an order under paragraph (1) is located, for the enforcement of any effective and outstanding order issued under this section, and the United States district courts shall have jurisdiction and power to order and require compliance therewith.

"(g) JUDICIAL REVIEW.—

"(1) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—Any foreign bank against which the Board has issued an order under subsection (e) or (f), or against which the Comptroller has issued an order under sec-

tion 4(i) of this Act, may obtain a review of such order in the United States Court of Appeals within any circuit wherein such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing in the court, within thirty days after entry of the order of the Board or the Comptroller, a petition praying that the order be modified or set aside.

"(2) PROCEDURES FOR JUDICIAL REVIEW.—A copy of such petition shall be forthwith transmitted to the Board or the Comptroller by the clerk of the court, as appropriate, and thereupon the Board or the Comptroller shall file in the court the record made before the Board or the Comptroller, as provided in section 2112 of Title 28.

"(3) SCOPE OF JUDICIAL REVIEW.—Upon the filing of such petition, the court shall have jurisdiction to affirm, modify or set aside the order of the Board or the Comptroller and to require the Board or the Comptroller to take such action with regard to the matter under review as the court deems proper. The findings of the Board or the Comptroller as to the facts, if supported by substantial evidence, shall be conclusive."

"(4) EXCLUSIVE JURISDICTION.—Judicial review of any order issued under subsection (e) or (f) or section 4(i) of this Act shall be exclusively as provided for in this subsection. No other court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any order under this section, or to review, modify, suspend, terminate, or set aside any such order.

"(h) CONSULTATION WITH STATE BANK LICENSING AUTHORITY.—The Board shall request and consider any views of the appropriate State bank licensing authority with respect to an application or action under subsection (e) or (f)."

(b) STANDARDS FOR APPROVAL OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking the heading and inserting instead "PRIOR APPROVAL REQUIRED.—";

(2) by inserting "(1) APPROVAL OF COMPTROLLER.—" before "Except"; and

(3) by adding at the end thereof the following new paragraph:

"(2) STANDARDS FOR APPROVAL.—In determining whether to grant approval under this subsection, the Comptroller shall apply the standards for approval set forth in section 7(e)(2) of this Act. The Comptroller shall provide the Board with notice and an opportunity to comment on any application to establish a Federal branch or Federal agency under this subsection."

(c) STANDARDS FOR APPROVAL OF ADDITIONAL FEDERAL BRANCHES AND AGENCIES.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by striking the heading and inserting instead "ADDITIONAL BRANCHES OR AGENCIES.—";

(2) by inserting "(1) APPROVAL OF COMPTROLLER REQUIRED.—" before "A foreign"; and

(3) by adding at the end thereof the following new paragraph:

"(2) STANDARDS FOR APPROVAL.—In determining whether to grant approval under this subsection, the Comptroller shall apply the standards for approval set forth in section 7(e)(2) of this Act. The Comptroller shall request and consider any views of the Board with respect to an application to establish an additional Federal branch or Federal agency under this subsection."

(d) DISAPPROVAL FOR FAILURE TO AGREE TO PROVIDE NECESSARY INFORMATION.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting "(1) COMPETITIVE FACTORS.—" before "The Board shall" the first time it appears;

(3) by inserting "(2) BANKING AND CONVENIENCE AND NEEDS FACTORS.—" before "In every case";

(4) by inserting "(4) TREATMENT OF CERTAIN BANK STOCK LOANS.—" before "Notwithstanding"; and

(5) by inserting after paragraph (2) the following new paragraph:

"(3) SUPERVISORY FACTORS.—The Board may disapprove any application under this section if the company or companies fail to provide the Board with adequate assurances that they will make available to the Board such information on the operations or activities of such company or companies and any affiliate of such company or companies that the Board deems necessary to determine and enforce compliance with this Act, or, in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country."

(e) CONFORMING AMENDMENTS.—

(1) AFFILIATE DEFINED.—Section 1(b)(13) of the International Banking Act (12 U.S.C. 3101(13)) is amended by inserting "affiliate," after "the terms" the first time it appears.

(2) REPRESENTATIVE OFFICE DEFINED.—Section 1(b)(13) of the International Banking Act (12 U.S.C. 3101(13)) is amended by inserting at the end the following new paragraph:

"(15) 'representative office' means any office of a foreign bank located in any State of the United States that is not a Federal branch, Federal agency, State branch, State agency or subsidiary of a foreign bank."

SEC. 3. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) AUTHORITY OF BOARD TO CONDUCT AND COORDINATE EXAMINATIONS.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) By striking paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) EXAMINATION OF BRANCHES, AGENCIES AND AFFILIATES.—

"(A) IN GENERAL.—The Board may make examinations of each branch or agency of a foreign bank, of each commercial lending company or bank controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, and of any other office or affiliate of a foreign bank conducting business in the United States or any territory or dependency of the United States. The cost of such examinations shall be assessed against and paid by such foreign bank or company, as the case may be."

"(B) COORDINATION OF EXAMINATIONS.—The Board shall seek to coordinate its examinations under this paragraph with the Comptroller, the Federal Deposit Insurance Corporation, and appropriate State supervisory authorities, including requesting, when the Board deems appropriate, simultaneous examinations of all offices of a foreign bank and its affiliates operating in the United States. Nothing in this subparagraph shall be construed to prevent the Board from conducting any examination under subparagraph (A) that it deems appropriate."

(2) In paragraph (2), by inserting "REPORTING REQUIREMENTS.—" before "Each branch".

(b) COORDINATION OF EXAMINATIONS.—Section 4(b) of the International Banking Act of

1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence:

"The Comptroller shall coordinate examinations of the Federal branches and agencies of foreign banks with examinations conducted by the Board under section 7(c)(1) and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board under section 7(c)(1) of the Act."

(c) PARTICIPATION IN COORDINATED EXAMINATIONS.—Section 10(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)) is amended by adding at the end thereof the following new sentence:

The Board of Directors shall coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board under section 7(c)(1) and, to the extent possible, shall participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978, as amended (12 U.S.C. §3105)."

SEC. 4. SUPERVISION OF THE REPRESENTATIVE OFFICES OF FOREIGN BANKS.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended by striking subparagraphs (a) and (b) and inserting in lieu thereof the following new subparagraphs:

"(a) PRIOR APPROVAL TO ESTABLISH REPRESENTATIVE OFFICES.—

"(1) IN GENERAL.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) STANDARDS OF APPROVAL.—In acting on any application under this paragraph to establish a representative office, the Board shall take into account the standards for approval set forth in section 7(e)(2) of this Act and may impose any additional requirements that are necessary to carry out the purposes of this Act.

"(b) TERMINATION OF REPRESENTATIVE OFFICES.—The Board may order the termination of the activities of a representative office of a foreign bank on the basis of the same standards, procedures and requirements as apply under, and subject to judicial review as provided in, section 7(e)(3) of this Act.

"(c) EXAMINATIONS.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) COMPLIANCE WITH STATE LAW.—This Act does not authorize the establishment of a representative office in any State in contravention of State law."

SEC. 5. REPORTING OF STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (2 U.S.C. 1817(j)(9)) is amended to read as follows—

"(9) REPORTING OF STOCK LOANS.

"(A) REPORT REQUIRED.—Any financial institution and any affiliate thereof that has credit outstanding to any person or group of persons secured or to be secured by shares of an insured depository institution shall file a consolidated report with the appropriate federal banking agency for the insured depository institution if such extensions of credit by the financial institution and its affiliates, in the aggregate, are secured or to be secured by 25 percent or more of any class of shares of the same insured depository institution.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(1) FINANCIAL INSTITUTION.—the term "financial institution" means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(2) CREDIT OUTSTANDING.—the term "credit outstanding" shall include—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that provides credit or financing to the person or group of persons.

"(4) GROUP OF PERSONS.—the term "group of persons" shall include any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) INCLUSION OF SHARES HELD BY THE FINANCIAL INSTITUTION.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) TIMING AND CONTENT OF REPORT; COPY TO APPROPRIATE AGENCY FOR THE LENDING FINANCIAL INSTITUTION.—The report required by this paragraph shall be a consolidated report on behalf of the financial institution and all of its affiliates, and shall be filed in writing within 30 days of the time the financial institution or any of its affiliates believes that the 25 percent level referred to in subparagraph (A) has been met or exceeded. The report shall indicate the number and percentage of shares securing each relevant extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any of its affiliates. A copy of the report shall be filed with the appropriate federal banking agency for the financial institution. Each appropriate federal banking agency may require any additional information necessary to carry out its supervisory responsibilities.

"(E) EXCEPTIONS.—

"(1) EXCEPTION WHERE INFORMATION PROVIDED BY BORROWER.—Notwithstanding subparagraph (A), a financial institution and its affiliates shall not be required to report a transaction under this paragraph if the person or group of persons has disclosed the amount borrowed from the financial institution and its affiliates and the security interest of the financial institution and its affiliates to the appropriate federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act or the Savings and Loan Holding Company Act, or any other formal application that is filed with the appropriate federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) EXCEPTION FOR SHARES OWNED FOR MORE THAN ONE YEAR.—Notwithstanding subparagraph (A), a financial institution and its affiliates shall not be required to report a transaction involving a person or group of persons that has been the owner or owners of record of the stock for a period of one year or more or where the stock is that of a newly chartered bank prior to its opening.

SEC. 6. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) DISCLOSURE OF SUPERVISORY INFORMATION TO FOREIGN SUPERVISORS.—Notwithstanding any other provision of law, the Board, the Comptroller, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority where such disclosure is deemed necessary or appropriate by such agency of the United States and such disclosure would not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Prior to disclosure of any information to a foreign authority, the United States agency shall obtain as necessary the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law."

SEC. 7. APPROVAL REQUIRED FOR ACQUISITION BY FOREIGN BANKS OF SHARES OF UNITED STATES BANKS.

Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) is amended by placing a period after the word "thereto" and deleting everything thereafter.

SEC. 8. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is further amended by adding at the end thereof (after the new section added by section 6 of this Act) the following new section:

"SEC. 16. PENALTIES.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any branch, agency, other office, or subsidiary of a foreign bank that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the appropriate Federal banking agency in the manner provided in subparagraphs (E), (F), (G), and (I) or section 8(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)) for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING.—The foreign bank, branch, agency, other office, or subsidiary of a foreign bank, or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such foreign bank, branch, agency, other office, or subsidiary, or person submits a request for a hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)) shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)) with respect to a foreign bank, or branch, agency, other office, or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States) shall not affect the jurisdiction or authority of the appropriate Federal banking agency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such foreign bank or branch, agency, other office, or subsidiary of a foreign bank (whether such date occurs before, on, or after the date of enactment of this Act).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the appropriate Federal banking agency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late,

shall be subject to a penalty of not more than \$2,000 for each day during which such failure continues or such false or misleading information is not corrected. The foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the appropriate Federal banking agency pursuant to this Act, within the time period specified by the agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or mislead-

ing report or information, the appropriate Federal banking agency may, in its discretion, assess a penalty of not more than \$1,000,000 or 1 percent of total assets of such foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraphs (1), (2), or (3) shall be assessed and collected by the appropriate Federal banking agency in the manner provided in subsection (a) of this section (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING.—Any foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, against which any penalty is assessed under this subsection shall be afforded an agency hearing if such foreign bank, or branch, agency, other office, or subsidiary of a foreign bank, submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)) shall apply to any proceeding under this subsection."

SEC. 9. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(a) by striking the heading and replacing it with "Enforcement";

(b) by inserting "(1)" before "In" and

(c) by adding at the end the following new paragraph:

"(2) POWERS RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.—

"(A) IN GENERAL.—In the course of or in connection with an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller, and the Federal Deposit Insurance Corporation, as appropriate, or any member or designated representative thereof, including any person designated to conduct any hearing under this Act, shall have the power to administer oaths and affirmations, to take or to cause to be taken depositions, and to issue, revoke, quash, or modify subpoenas and subpoenas duces tecum.

"(B) RULE-MAKING AUTHORITY.—The Board, the Comptroller, and the Federal Deposit Insurance Corporation shall have the authority to issue rules and regulations to effectuate the purposes of section 13(b)(2)(A) of this Act.

"(C) SUBPOENA POWER.—The attendance of witnesses and the production of documents provided for in this subsection may be required by subpoena or subpoena duces tecum from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted.

"(D) JUDICIAL REVIEW.—Any party to proceedings under this act may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for the enforcement of any subpoena or subpoena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to require compliance therewith.

"(E) WITNESS FEES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid to witnesses in the district courts of the United States.

"(F) SERVICE OF PROCESS.—Any service required under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the agency may by regulation or otherwise provide.

"(G) ATTORNEYS' FEES.—Any court having jurisdiction of any proceeding instituted under this Act may allow to any party that succeeds in having an agency order modified or set aside such reasonable expenses and attorneys' fees as it deems just and proper.

"(H) PENALTIES FOR NOT COMPLYING FOR EACH DAY THAT SUCH FAILURE OR REFUSAL CONTINUES.—Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena of the agency, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$10,000 for each day that such failure or refusal continues or to imprisonment for a term of not more than one year or both."

SEC. 10. PENALTIES FOR FAILURE TO COMPLY WITH AGENCY SUBPOENA.

(a) Section 5(f) of the Bank Holding Company Act 1956 (12 U.S.C. 1844(f)) is amended in the last sentence by striking "\$1000" and inserting in lieu thereof "\$10,000 for each day that such failure or refusal continues".

(b) Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended in the last sentence by striking "\$1000" and inserting in lieu thereof "\$10,000 for each day that such failure or refusal continues".

SEC. 11. CLARIFICATION OF MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT.

Section 3(c) of the Bank Holding Company Act (12 U.S.C. 1842(c)) is amended by adding at the end of paragraph (2) (as redesignated by section 2(d) of this Act) the following new sentence: "Consideration of the managerial resources of a company or bank shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank."

SEC. 12. AUTHORITY OF FEDERAL BANKING AGENCIES TO ENFORCE CONSUMER STATUTES.

(a) AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT.—

(1) MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE.—Section 304(h) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is amended by striking paragraphs (1) and (3) and inserting in lieu thereof the following new paragraphs:

"(1) the Comptroller of the Currency for national banks and Federal branches and Federal agencies of foreign banks;

* * * * *

"(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph."

(2) ENFORCEMENT.—Section 305(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)) is amended by striking paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), insured branches of foreign banks, and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation.

"(D) The terms used in this paragraph that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

(b) AMENDMENT TO THE TRUTH IN LENDING ACT.—Section 108(a) of the Consumer Credit Protection Act (15 U.S.C. 1607(a)) is amended by striking paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation.

"(D) The terms used in this paragraph that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

(c) AMENDMENT TO THE FAIR CREDIT REPORTING ACT.—Section 621(b) of the Consumer Credit Protection Act (15 U.S.C. 1681s(b)) is amended by striking paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation.

"(D) The terms used in this paragraph that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

(d) AMENDMENT TO THE EQUAL CREDIT OPPORTUNITY ACT.—Section 704(a) of the Consumer Credit Protection Act (15 U.S.C. 1691c(a)), is amended by striking paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation.

"(D) The terms used in this paragraph that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

(e) AMENDMENT TO THE FAIR DEBT COLLECTION PRACTICES ACT.—Section 814(b) of the Consumer Credit Protection Act (15 U.S.C. 1692i(b)) is amended by striking paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation.

"(D) The terms used in this paragraph that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

(f) AMENDMENT TO THE ELECTRONIC FUND TRANSFER ACT.—Section 917(a) of the Consumer Credit Protection Act (15 U.S.C. 1693o(a)), as amended by the Financial Insti-

tutions Regulatory and Interest Rate Control Act of 1978, is amended by striking paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation.

"(D) The terms used in this paragraph that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

(g) AMENDMENT TO THE FEDERAL TRADE COMMISSION ACT.—

(1) DEFINITIONS.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end thereof the following new paragraph: "Banks' means the types of banks and other financial institutions referred to in section 18(f)(2)."

(2) ENFORCEMENT.—Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended by striking paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) Compliance with regulations prescribed under this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, banks operating under the code of law for the District of Columbia, and Federal branches and Federal agencies of foreign banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks and banks operating under the code of law for the District of Columbia), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the division of consumer affairs established by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other banks referred to in subparagraph (A) or (B)) and insured branches of foreign banks, by the division of consumer affairs established by the Board of Directors of the Federal Deposit Insurance Corporation.

"(D) The terms used in this paragraph that are not defined in the Federal Trade Commission Act or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

(h) AMENDMENT TO THE EXPEDITED FUNDS AVAILABILITY ACT.—Section 610(a) of the Competitive Equality Banking Act of 1987 (12 U.S.C. 4009(a)) is amended by striking para-

graph (1) and inserting in lieu thereof the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured branches of foreign banks), by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation.

"(D) The terms used in this paragraph that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

Washington, DC, March 25, 1991.

Hon. ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System, Washington, DC.

DEAR CHAIRMAN GREENSPAN: On March 4, 1991, the Bank of Credit and Commerce International ("BCCI") entered into a consent decree with the Federal Reserve Board ("Board") to divest its interest in First American Bank and to cease all operations and activities in the United States. I understand that the Board also has initiated a civil investigation into the nature of the relationship between BCCI and First American Bank and, on January 22, 1991, referred that same matter to the Department of Justice for a possible criminal investigation.

We have no desire to duplicate the investigative work being conducted by the Board on the BCCI matter. It is also our policy not to become involved in matters that are under criminal investigation by the Department of Justice. We do not wish to interfere or jeopardize any ongoing investigation in any way and we understand that any response made to this request will accordingly be provided in that context.

Nevertheless, the BCCI matter does raise important policy issues about the adequacy of regulation and supervision of foreign banking entities in the United States. The suggestions you gave us last year about extending criminal penalties to the agencies and branches of foreign banks operating in this country were very useful and were incorporated in the Crime Control Act of 1990. It would be very helpful for the Committee to know whether the Federal Reserve Board, in examining the BCCI matter, has reached any conclusions about further regulatory or legislative changes that may be needed to better supervise the operations of foreign financial institutions in this country. We presently are re-examining legislation developed and reported by the Committee last year to strengthen the U.S. Government's ability to control and punish money laundering by financial institutions. It is our hope to mark up and report out such legislation later this spring. We would appreciate any legislative recommendations you might formulate to strengthen supervision of foreign banks, in

light of your ongoing investigation of the BCCI matter, for possible incorporation into that bill. If you determine that legislative changes are not needed, but have other recommendations, we would appreciate learning that as well.

Thank you for your continued cooperation. I look forward to your reply.

Sincerely,

DONALD W. RIEGLE, Jr.,
Chairman.

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

Washington, DC, April 19, 1991.

Hon. ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System, Washington, DC.

DEAR CHAIRMAN GREENSPAN: On March 25, 1991, I wrote to you regarding Bank of Credit and Commerce International's ownership interest in First American Bank. In that letter, I requested your suggestions for any regulatory or legislative changes you believe are necessary to improve supervision of foreign financial institutions' operations in the United States. I understand that you and your staff are in the process of finalizing a formal recommendation and I appreciate your efforts to provide a prompt response to my request.

In connection with our review of the regulatory issues raised by this matter, it has been brought to my attention by some observers that the Federal Reserve Board may not have access to financial and other records of foreign entities and individuals in order to verify representations made to the Federal Reserve Board and to adequately supervise foreign banks' operations in this country. If so, this would be a major loophole in our ability to keep foreign criminals out of the U.S. banking system.

Please provide the Committee with an explanation and analysis of the Board's current discovery and subpoena authorities, especially as they relate to bank holding company applications, and whether the Board is able in practice to obtain the necessary documentation to approve and supervise foreign banking operations in the United States. In addition, I would be interested in knowing whether the Federal Reserve Board can deny entry into this country when foreign banks or individuals refuse to grant the Board access to their books and records and, if not, whether the Board should be granted such authority. Finally, I would be interested in specific legislative recommendations for improving the Board's access to foreign banks' and individuals' records together with any recommendations for denying foreign banks entry into the United States if they refuse to provide such access.

You may have in fact anticipated addressing these issues in responding to my March 25th letter. If you have not, please do so. I look forward to receiving your responses to this letter and my earlier one. I appreciate your continuing cooperation on this matter.

Sincerely,

DONALD W. RIEGLE, Jr.,
Chairman.

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

Washington, DC, March 25, 1991.

Hon. RICHARD L. THORNBURGH,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL: The Congress and this Committee have been most inter-

ested in ensuring that fraud in the savings and loan industry is prosecuted to the maximum extent possible. As you know, the Congress included special provisions in the FIRREA legislation to give your Department enhanced prosecutorial powers and resources to be able to do that, and I know this is a matter of keen interest to you personally. The Banking Committee has also been particularly interested in curbing money laundering through insured institutions and your Department has testified before our Committee more than once on that issue in recent years.

Last year Senator John Kerry, a member of the Banking Committee who also chairs the Subcommittee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee, raised with me his concerns that those who committed fraud in the savings and loan industry might be transferring their illicit profits out of this country through money laundering operations. He also expressed apprehension about the operations in the United States of the Bank of Credit and Commerce International ("BCCI"), particularly possible laundering of profits derived from narcotics trafficking and other illegal activities by that institution. I suggested then that he bring his specific concerns about BCCI to the attention of your Department and also the Federal Reserve Board, which regulates the U.S. operations of foreign bank holding companies, since, like most Senate Committees, our Committee has not been an investigative one.

I now understand that the Federal Reserve Board has initiated a civil investigation of certain aspects of BCCI's operations in the United States, and, on January 22, 1991, referred the matter to your Department for a possible criminal investigation. It is the policy of the Banking Committee not to become involved in any matters under criminal investigation as we would not wish to jeopardize the success of any ongoing investigation in any way. Please understand that general policy in any response you make to me or members of the Banking Committee about matters raised in this letter.

Because, however, the BCCI case does raise important policy issues about the adequacy of regulation and supervision of foreign banking entities in the United States, we have asked the Federal Reserve to recommend any statutory or regulatory changes they deem necessary. Your Department's views on that matter are also of interest to us and we would welcome any legislative suggestions you might have. In addition, the Committee would be interested in learning whether money laundering by savings and loan crooks is seen by the Department as a serious problem and, if so, what efforts are being made by your Department to stop it and to retrieve any stolen money transferred out of our country through such operations.

I am enclosing a recent letter from Senator Kerry that may be helpful to you.

I look forward to receiving your reply on these two issues.

DONALD W. RIEGLE, Jr.,
Chairman.

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS,
Washington, DC, March 25, 1991.

CHARLES A. BOWSHER,
Comptroller General of the United States,
General Accounting Office,
Washington, DC.

DEAR MR. BOWSHER: The Federal Reserve Board entered into a consent decree on March 4, 1991, with Bank of Credit and Commerce International ("BCCI") to divest its interest in First American Bank and to cease all its operations and activities in the United States. I understand that the Federal Reserve Board staff is now conducting a civil investigation of BCCI and its relations to First American Bank and has also referred the matter to the Department of Justice for criminal investigation.

The Banking Committee believes the BCCI case raises a number of policy questions regarding the regulation and supervision of foreign bank entities in the United States. The Committee, therefore, requests that you undertake a study of the existing regulatory framework, including the following issues:

Is the Federal Reserve's application and approval process for foreign bank entities adequate? Does the Federal Reserve need any additional statutory authority to obtain information necessary for approval of foreign bank applications?

Does the Federal Reserve have adequate staff resources to thoroughly investigate representations made in applications by foreign entities?

Is the Federal Reserve's oversight and supervision of the activities of foreign bank entities in this country (after initial approval) adequate?

Your analysis should include any recommendations for regulatory or legislative changes that may be necessary to improve the regulation and supervision of such entities. The Committee does not wish to jeopardize any of the ongoing criminal or civil investigations by the Department of Justice and the Federal Reserve Board and, therefore, asks that you restrict your analyses to the policy issues raised by the BCCI case.

Thank you for your continued cooperation. I look forward to your reply at your earliest convenience.

DONALD W. RIEGLE, Jr.,
Chairman.

FEDERAL RESERVE SYSTEM,
Washington, DC, May 9, 1991.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing,
and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of March 25, 1991, asking whether the Board, in connection with its investigation of the Bank of Credit and Commerce International ("BCCI") matter, has recommendations for legislation to improve federal supervision of foreign financial institutions in this country. In your followup letter of April 19, 1991, you asked in particular whether additional legislation is necessary to ensure that the Board has sufficient access to the records of foreign banks operating in the United States to carry out its supervisory responsibilities for such institutions.

Over the last two years, the Board has conducted investigations and taken enforcement actions with respect to unlawful activities at several foreign banks operating in the United States. These included off-book lending activities at the Atlanta agency of Banca Nazionale del Lavoro ("BNL"), money laun-

dering by the Tampa, Florida agency of BCCI, the acquisition by BCCI of control of First American Bankshares through nominee loan arrangements, and unlawful deposit taking by a representative office of The National Mortgage Bank of Greece. As you will recall, last year, in connection with the BNL investigation, the Board forwarded to you recommendations to cover foreign bank branches and agencies in this country under various provisions of the criminal code governing bank fraud and other bank crimes. Those recommendations were acted upon by the Congress in the Crime Control Act of 1990.

Since that time, the Board has undertaken a review of the statutes, regulations, and supervisory policies governing foreign bank operations in the United States. On the basis of that review, the Board has concluded that legislation is needed to strengthen the system of federal regulation and supervision of foreign bank operations in this country, and I am pleased to provide you with the Board's recommendations in this regard. I have enclosed a discussion paper explaining in more detail the Board's legislative recommendations, statutory language to implement these recommendations, and a section-by-section analysis of the proposed legislation.

The International Banking Act of 1978 ("IBA") for the first time subjected the operations of foreign banks in this country to federal regulation. Since that time, the presence of foreign banks in the United States has expanded significantly. The current dimensions of foreign bank operations are indicated by the fact that as of December 31, 1990, there were 290 foreign banks with operations in the United States with aggregate assets of \$800 billion. Branches and agencies of foreign banks alone had aggregate assets of approximately \$626 billion, or 18 percent of total banking assets in this country, as of year end 1990. Approximately 94 percent of the total assets of foreign bank branches and agencies were in 489 state licensed offices, while 6 percent were in 76 federally licensed branches and agencies.

Foreign banks have contributed significantly to the banking environment in the United States and have been an important source of credit for American business. Moreover, the active presence of foreign banks in U.S. financial markets has assured the continued importance of New York as an international financial center and has contributed to the growth of international banking in several other major U.S. cities. The proposals presented by the Board in this letter recognize the substantial role that foreign banks play in the U.S. banking market. They seek to provide federal regulators with clear standards to govern entry into the United States by foreign banks and with enhanced tools for monitoring their ongoing operations in the United States.

In 1974, at the beginning of the legislative process that culminated in the enactment of the IBA, the Board recommended that federal approval be required for all foreign bank offices in the United States and that such offices be supervised as if they were member banks of the Federal Reserve System. The Board is of the same view today. The Board's recommendations would achieve these objectives while still recognizing the interests of the states in attracting foreign banks to their markets through state licensing of branches or agencies.

FEDERAL REVIEW OF APPLICATIONS BY FOREIGN BANKS TO ESTABLISH OFFICES IN THE UNITED STATES

The Board's first recommendation would require federal approval for foreign banks seeking to establish state licensed branches and agencies or commercial lending subsidiaries in this country. Under the IBA, the Board is given certain responsibilities for the supervision of foreign banks in the United States, but no federal agency has a voice in the decision as to whether individual institutions seeking to enter U.S. markets through state branches and agencies, commercial lending companies, or representative offices meet the standards generally applicable to banking organizations in this country. The Board believes that it is important that the agency responsible for overall supervision of foreign banks in this country have a role in determining whether such institutions may establish or retain, where appropriate legal and supervisory standards have been violated, a U.S. banking presence. This is a fundamental principle in other areas of federal bank regulation, and, given the size of the operations of branches and agencies of foreign banks in the United States and the importance of these operations to the U.S. banking market, there is every reason to apply that principle to these institutions as well.

STANDARDS GOVERNING FOREIGN BANK ENTRY INTO THE UNITED STATES

The Board believes that it is desirable to have clear and definite standards governing the entry of foreign banks into the United States. These would include consideration of whether a foreign bank has the financial and managerial resources and banking expertise to operate in the United States and whether the bank is subject to comprehensive supervision on a consolidated basis by home country authorities. We believe this latter standard is of particular importance when dealing with a financial institution that operates internationally because only if the institution is reviewed on a consolidated basis can there be any certainty as to its condition and the extent and lawfulness of its operations. Recent experience with a major international bank operating in the United States has emphasized the desirability of this type of supervision and the wisdom of making this a standard for entry into the United States. In addition, the standards would ensure that the Board has access to information on the activities of foreign banks and their affiliates in the United States in order to determine and enforce compliance with applicable legal requirements governing their U.S. operations. Our experience with an ongoing foreign bank investigation has shown the importance of this requirement. Similar amendments should be added to the standards in the Bank Holding Company Act ("BHC Act") that govern the acquisition of U.S. banks by foreign banks.

SUPERVISION OF FOREIGN BANK REPRESENTATIVE OFFICES IN THE UNITED STATES

The Board also recommends that prior approval be required for foreign banks to establish representative offices in the United States and that examination requirements be established for such offices in order to assure that they conduct only the limited activities permitted by their licenses and do not engage in the business of banking on an unlicensed and unsupervised basis.

AUTHORITY TO TERMINATE FOREIGN BANK OFFICES IN THE UNITED STATES

In addition to new authority to govern the entry of foreign banks into the United

States, the Board recommends that the activities of a foreign bank through a branch, agency, commercial lending subsidiary or representative office in the United States be subject to termination by federal authorities for a violation of law or for an unsafe or unsound banking practice where the continued operation of the office or subsidiary would not be consistent with the public interest or relevant statutory standards. These standards would cover a situation in which an institution does not have adequate financial or managerial resources or is otherwise unsuitable to maintain a U.S. office.

ENHANCED EXAMINATION AUTHORITY FOR FOREIGN BANK OFFICES

While the Board has residual authority to examine all foreign bank branches and agencies in the United States, the IBA contains a directive that the Board use "to the extent possible" the examination reports of other state and federal regulators. Recent cases involving the U.S. offices of foreign banks have demonstrated that problems in these offices can have effects, both nationally and internationally, that go far beyond the individual state in which an office is located. Given the Board's responsibility under the statute for the supervision of a foreign bank's overall operations in the United States, the Board believes that the IBA should be amended to remove the requirement that the Board defer to other regulators in exercising its examination authority. If the proposed provision is adopted, the Board would consult with state and other authorities regarding the frequency and type of examination program for foreign bank offices, in the same fashion it does currently in the case of examinations of state member banks.

Experience has also demonstrated that there is a need to coordinate examinations of the various U.S. offices of a foreign bank and its U.S. affiliates and in some instances to conduct simultaneous examinations of such operations. The Board believes that it is important that there be a clear Congressional authorization for such coordination, including authority to call for simultaneous examinations of such offices where appropriate. This statutory clarification would, in the Board's view, improve the overall supervision of foreign banks in this country.

REPORTING OF BANK STOCK LOANS BY FOREIGN BANKS

The Board proposes that additional reporting be required for loans secured by 25 percent or more of the stock of any U.S. insured depository institution or company that controls such a depository institution. This reporting requirement currently applies only when such loans are made by another U.S. insured depository institution. Extending the reporting requirement to foreign banks operating in the United States is intended to help assure that information is available on whether control of a U.S. depository institution has been obtained through lending. For the same reason, the Board also recommends extending this reporting requirement to loans made by subsidiaries and affiliates of foreign banks as well as domestic banking organizations.

ACQUISITION OF SHARES OF U.S. BANKS BY FOREIGN BANKS

Further, the Board recommends that a foreign bank that maintains branches and agencies in the United States be required to obtain prior approval before acquiring more than 5 percent of the voting shares of a bank or bank holding company in the United States. This requirement, which currently applies to U.S. banking institutions, seeks to

ensure that the standards in the BHC Act on control, financial and managerial resources, and community convenience and needs are satisfied in such acquisitions. This legislative change will assure that all entities that conduct a commercial banking business in the United States will be subject to the same requirements with respect to investments in U.S. banks.

SHARING OF INFORMATION AMONG INTERNATIONAL BANKING SUPERVISORS

The Board recommends that the IBA be amended to clarify that the federal banking agencies are authorized to share supervisory information with their foreign counterparts, subject to adequate assurances of confidentiality, where the disclosure of information is appropriate in carrying out the U.S. agency's responsibilities and where the sharing of information would not prejudice the interests of the United States. Our recent experience with certain foreign bank investigations has shown that effective supervision of international banks requires coordination and sharing of supervisory information among international banking supervisors.

OTHER PROPOSALS

Finally, the Board is proposing three additional revisions to existing law. First, consistent with the principle that foreign bank branches and agencies should be supervised as banks, the Board recommends that the various consumer lending laws be amended to specify that the banking agencies are the enforcement authorities for branches and agencies of foreign banks. Second, the Board recommends modification of the BHC Act to clarify that it may consider the competence, experience, and integrity of principal shareholders, whether they are domestic or foreign, in proposed acquisitions by bank holding companies or foreign banks of a U.S. banking organization. The third proposal would provide for the assessment of civil money penalties for violation of the IBA or its implementing rules.

AUTHORITY TO OBTAIN INFORMATION ON FOREIGN BANK OPERATIONS IN THE UNITED STATES

With respect to your questions relating to the Board's current discovery and subpoena power, the authority for each is found in section 5(f) of the BHC Act (12 U.S.C. 1844(f)) with respect to bank holding companies and foreign banks that operate branches and agencies in the United States in connection with matters arising under that statute. The Board has the same authority under section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) with respect to an enforcement proceeding against an entity for which the Board is the appropriate federal banking agency, such as agencies and uninsured state licensed branches of foreign banks. In each case, the Board is authorized to take depositions and to compel the attendance of witnesses and the production of documents. The Board proposes to add a similar provision to the IBA to make clear that the Board and the other federal banking agencies have these same authorities for investigations that arise under the IBA.

These provisions state that the Board may compel the attendance of witnesses and the production of documents from "any place in any state or territory or other place subject to the jurisdiction of the United States." A subpoena for persons or documents located outside the United States could issue against a U.S. office or subsidiary of the foreign bank that is the subject of the investigation or proceeding and could be enforced through the U.S. presence of the foreign bank. Al-

though we do not recommend a change in the law at this time, we are consulting with the U.S. Department of Justice to determine whether there are ways to enhance the authority currently granted by law.

In connection with this issue, I would note that the Board has required foreign banks and foreign companies that enter the United States through acquisition or establishment of a bank, branch, agency, or commercial lending company subsidiary to name an agent in the United States for service of process. This has been done in order that the Board would have jurisdiction in any proceeding against the foreign bank to enforce U.S. banking laws.

CURRENT FEDERAL RESERVE EXAMINATION POLICY CONCERNING FOREIGN BANK OFFICES

You also requested information on what other steps the Federal Reserve may be taking with respect to supervising branches and agencies of foreign banks in the United States. The Board has coordinated with the primary supervisors of these branches and agencies in order to ensure that they are subject to examination on a regular basis. It has also instituted a program for coordinating, to the extent possible under current law, the simultaneous examination of the U.S. offices of selected foreign banks in order to obtain a comprehensive view of the foreign banks' U.S. operations. The Board and the Reserve Banks have also taken steps to increase and improve the sharing of information between the Federal Reserve and the state authorities that license foreign banks.

In addition, the staff is in the process of developing proposals for the Federal Reserve to examine foreign bank offices in the United States on the same basis as currently employed for state member banks. Such supervision would at a minimum include annual on-site examinations as well as a program of formal comment to state licensing authorities. We will keep you informed as these proposals develop as well as of other changes that the Board may adopt. As noted above, we believe it is important for Congress to clarify the Board's authority to conduct and coordinate examinations in this area.

The Board appreciates your interest and standards ready to assist in any way it can in the Committee's consideration of this important legislation.

Sincerely,

ALAN GREENSPAN.

THE FOREIGN BANK SUPERVISION ENHANCEMENT ACT OF 1991—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Foreign Bank Supervision Enhancement Act of 1991.

SECTION 2. STRENGTHENED REGULATION OF FOREIGN BANK OPERATIONS IN THE UNITED STATES

Section 2 is intended to strengthen the federal supervision and regulation of foreign banks in the United States. It requires prior federal review of the establishment of all state licensed branches, agencies, and commercial lending company subsidiaries of foreign banks in the United States. It also permits federal authorities to terminate the activities of such offices for a violation of law or an unsafe and unsound banking practice when that violation or practice indicates that the maintenance of an office or commercial lending company subsidiary of such foreign bank in the United States would be inconsistent with the purposes of applicable statutes. Currently the Federal Reserve Board ("Board") has certain responsibilities

with respect to foreign bank operations in the United States, but has no voice in decisions with respect to the licensing of branches, agencies, and commercial lending company subsidiaries of foreign banks in this country. Moreover, no other federal agency currently has authority to review a proposal by a foreign bank to open a state branch, agency, or commercial lending company. This provision is intended to give the federal bank regulatory agency responsible for the overall supervision of foreign banks authority to take part in decisions on the establishment and termination, where appropriate, of U.S. offices of foreign banks.

Prior Approval and Standards for Entry

Specifically, section 2(a) amends the International Banking Act of 1978 ("IBA") to require Board approval before a foreign bank can open a state branch, state agency, or commercial lending company subsidiary in the United States. This provision does not change the current authority of the Office of the Comptroller of the Currency ("OCC") to review the licenses of federal branches and agencies, but gives the Board the authority to recommend against approval of such licenses. Sections 2(b) and (c) also apply the same standards to decisions to license federal branches and agencies of foreign banks as to decisions to license state branches, agencies, and commercial lending subsidiaries of foreign banks. The relevant standards for approval for both determinations are: whether a foreign bank engages in banking abroad and is subject to comprehensive supervision in its home country; whether the home country regulator has approved the U.S. office; the financial and managerial resources of the foreign bank; whether the foreign bank has provided adequate assurances on the availability of information to the U.S. regulator; and whether the foreign bank is in compliance with all applicable U.S. laws.

Authorizations and Standards for Termination

In addition, section 2(a) also provides the Board with the authority to order a foreign bank that operates a state branch, state agency, or commercial lending company subsidiary in the United States to terminate the activities of such branch, agency, or commercial lending company subsidiary in the United States. The Board could order such termination where there is reasonable cause to believe that the foreign bank, or any affiliate of the foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States and, as a result of such violation or practice, maintenance of any office or commercial lending company subsidiary of such foreign bank in the United States would be inconsistent with the purposes of the IBA, the Bank Holding Company Act ("BHC Act"), or the Financial Institutions Supervisory Act of 1966 ("FISA"). Section 2(a) establishes the standards, requirements, and procedures, applicable to decisions on terminating the activities of foreign bank offices. The provision also requires the Board to consult with the appropriate state bank licensing authority on decisions related to the establishment and termination of a foreign bank's offices, and establishes the standards for judicial review of such decisions. Finally, the provision authorizes the Board to recommend to the OCC termination of the license of a federal branch or agency of a foreign bank whenever the Board has reasonable cause to believe that the foreign bank or any affiliate has engaged in conduct that would warrant termination of the activities of a state branch or agency under section 2(a).

Access to Information

Further, section 2(d) amends the BHC Act to permit the Board to disapprove any application to acquire a U.S. bank unless the Board is given adequate assurances that it will have access to information on the operations or activities of a company or companies, or any affiliates, making application to acquire a U.S. bank that the Board deems necessary to fulfill the requirements of the IBA, the BHC Act, or the FISA. This requirement applies to applications by both foreign banking organizations and domestic bank holding companies. Section 2(d) also permits the Board to disapprove any application under the BHC Act involving a foreign bank that is not subject to consolidated supervision by the regulatory authorities in the foreign bank's home country.

Finally, section 2(e) makes a conforming amendment to the IBA that gives the term "affiliate" in the IBA the same meaning as it has in the BHC Act.

SECTION 3. AUTHORITY TO CONDUCT EXAMINATIONS

Section 3(a) amends the IBA to give the Board authority to supervise and examine the U.S. offices and affiliates of foreign banks. The IBA currently requires that the Board defer to other regulators "to the extent possible" in exercising its examination authority. Section 3(a) removes this requirement.

Section 3(a) also directs the Board to seek to coordinate its examinations of the U.S. offices of foreign banks with the OCC, the Federal Deposit Insurance Corporation ("FDIC"), and the appropriate state supervisory authority, and provides authority to request, simultaneous examinations of all offices of a foreign bank, where appropriate. Sections 3(b) and 3(c) direct the OCC and the FDIC, to the extent possible, to coordinate their respective examinations so as to participate in any simultaneous examination requested by the Board.

SECTION 4. STRENGTHEN THE SUPERVISION OF THE REPRESENTATIVE OFFICES OF FOREIGN BANKS IN THE UNITED STATES

Section 4 strengthens the federal supervision of representative offices of foreign banks in the United States. Currently representative offices of foreign banks are state licensed, and are generally not subject to supervision or examination by a federal regulator, although they are registered with the U.S. Department of the Treasury. Section 4 amends the IBA to give the Board authority to approve the establishment of representative offices of foreign banks and directs the Board to take into account the same standards applied to the establishment of foreign bank branches and agencies under section 2(a). Section 4 also amends the IBA to give the Board authority to examine these representative offices. In addition, the provision permits the Board to terminate the activities of such representative offices on the basis of the same standards, procedures, and requirements set forth in, and subject to the same judicial review provided in, section 2(a) for termination of the licenses of state branches and agencies.

SECTION 5. REPORTING OF STOCK LOANS

The Change in Bank Control Act currently requires insured depository institutions and their holding companies to report to the federal banking agencies any loans they make that are secured by 25 percent or more of the shares of an insured depository institution or its holding company. Section 5 extends this reporting requirement to such extensions of credit when made by any foreign

bank that is subject to the BHC Act, any affiliate of a foreign bank, or any affiliate of a depository institution. The amendment also clarifies that this reporting requirement applies to loans made by a single organization to any group of persons acting together to acquire shares of the same institution. The section retains the existing exception for loans made to a borrower that has held title to the shares for at least one year prior to receiving the loan.

SECTION 6. COOPERATION WITH FOREIGN SUPERVISORS

Section 6 amends the IBA to make clear that the federal banking agencies have the authority to disclose to foreign bank regulatory or supervisory authorities information obtained in the course of exercising regulatory, supervisory or examination authority. Under the provision such disclosures will take place only under agreements providing adequate safeguards for the confidentiality of the information exchanged and where disclosure of the information would not prejudice the public interest of the United States.

SECTION 7. APPROVAL REQUIRED FOR ACQUISITION OF U.S. BANK STOCK BY FOREIGN BANKS

Under the BHC Act, domestic bank holding companies are required to obtain approval to acquire more than 5 percent of the shares of another bank or bank holding company. This requirement for prior review ensures compliance with the control, financial and managerial, and public interest standards under the BHC Act. The IBA provides an exception to this requirement for a foreign bank that operates only a branch, agency, or commercial lending company in the United States. Section 7 eliminates this exception in the IBA, thereby making all institutions engaged in a commercial banking business in the United States subject to the same rules with respect to the acquisition of shares in U.S. banks.

SECTION 8. PENALTIES

Section 8 amends the IBA to allow the appropriate federal banking agencies to assess civil penalties for violations of the IBA in a manner consistent with the provisions of the BHC Act applying civil penalties to bank holding companies. In this regard, section 8 provides for the amount of the civil penalty, which shall not exceed \$25,000 for each day during which the violation continues; the manner by which the penalty is assessed and collected; the availability of agency hearings for parties against whom penalties are assessed; the disbursement of penalties into the Treasury; the definition of the term "violate;" and the promulgation of regulations by appropriate federal banking agencies to carry out this section.

Section 8 also states that the separation of a institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act) from service with respect to a foreign bank, or branch, agency, other office, or subsidiary of a foreign bank shall not affect the jurisdiction or authority of the appropriate federal banking agency to issue any notice or commenced a proceeding under section 8 against the party, if the notice is served within six years of the party's separation from service.

Section 8 also provides for civil penalties for a failure by foreign banks, branches, agencies, other offices, or subsidiaries of foreign banks to make reports as required by the IBA or regulations promulgated under the IBA. These civil penalty provisions of section 8 parallel those in section 8(d) of the BHC Act, which establishes civil penalties for failure to make the reports required under the BHC Act.

Section 8 provides for three tiers of civil penalties for a failure to make reports. The first tier penalty of not more than \$2,000 per day applies to any foreign bank, branch, agency, other office, or subsidiary of a foreign bank that: (1) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, either fails to make reports required under the IBA within the time period specified by the appropriate federal banking agency, or submits false or misleading reports; or (2) inadvertently transmits or publishes any report that is minimally late. The second tier penalty of not more than \$20,000 per day applies to any foreign bank, branch, agency, other office, or subsidiary of a foreign bank that: (1) fails to make reports required under the IBA within the time period specified by the appropriate federal banking agency; or (2) submits false or misleading reports. The third tier penalty of not more than \$1,000,000 or 1 percent of total assets of the penalized foreign bank, whichever is less, is imposed per day and applies to any foreign bank, branch, agency, other office, or subsidiary of a foreign bank that knowingly or with reckless disregard for the accuracy of any report submits false or misleading reports. Section 8 also provides for the manner by which the penalty is assessed and collected, and the availability of agency hearings for parties against whom these penalties are assessed.

SECTION 9. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS

Section 9 strengthens the powers of federal banking agencies to conduct investigations and collect information in connection with applications, examinations, and other proceedings under the IBA. Section 9 amends the IBA to add a provision authorizing the federal banking agencies to administer oaths and affirmations, to take depositions, and to issue, revoke, quash, or modify subpoenas and subpoenas duces tecum, in connection with applications, examinations, investigations or other proceedings under the IBA. Section 9 also gives the federal banking agencies rule-making authority, establishes subpoena power, provides for judicial review, establishes witness fees, provides for service of process and attorneys fees, and sets forth a penalty of not more than \$10,000 per day for noncompliance with subpoenas issued by the agencies.

SECTION 10. AMENDMENTS TO PENALTIES FOR FAILURE TO COMPLY WITH AGENCY SUBPOENA

In order to make the penalties for failures to comply with agency subpoenas consistent among the IBA, BHC Act and Federal Deposit Insurance Act, section 10 amends section 5(f) of the BHC Act and section 8(n) of the Federal Deposit Insurance Act to increase the penalties for failing to comply with agency subpoenas from \$1000 per day to \$10,000 per day.

SECTION 11. CLARIFICATION OF MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT

Section 11 clarifies the Board's authority under the BHC Act to consider the competence, experience, and integrity of officers, directors, and principal shareholders in deciding whether to approve a proposed acquisition of a U.S. bank or bank holding company. Section 11 means the BHC Act to direct the Board, when considering the managerial resources of a company or bank, to also consider the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.

SECTION 12. AUTHORITY OF FEDERAL BANKING AGENCIES TO ENFORCE CONSUMER STATUTES

Section 12 gives the federal banking agencies the examination and enforcement authority relating to foreign bank offices in the United States, including branches, agencies, and commercial lending company subsidiaries of foreign banks in the United States, in order to parallel the authority these agencies have with respect to domestic banking institutions. In addition, as the Board currently has regulatory and supervisory authority with respect to specialized international banking entities called Edge and Agreement corporations, the provision would also give the Board, examination and enforcement authority with respect to these entities in connection with appropriate consumer statutes. Thus, the OCC is the appropriate federal banking agency under these statutes for federal branches and agencies of foreign banks; the Board is the appropriate federal banking agency under these statutes for branches and agencies of foreign banks (other than federal branches and agencies, and insured branches of foreign banks); and the FDIC is the appropriate federal banking agency under these statutes for insured branches of foreign banks.

Section 12(a) amends the Home Mortgage Disclosure Act to provide for the maintenance of records and public disclosure regarding foreign bank offices and to specify the enforcement authority under the Home Mortgage Disclosure Act for foreign bank offices, and Edge and Agreement corporations.

Section 12(b) amends the Truth in Lending Act to specify the enforcement authority under the Truth in Lending Act for foreign bank offices, and Edge and Agreement corporations.

Section 12(c) amends the Fair Credit Reporting Act to specify the enforcement authority under the Fair Credit Reporting Act for foreign bank offices, and Edge and Agreement corporations.

Section 12(d) amends the Equal Credit Opportunity Act to specify the enforcement authority under the Equal Credit Opportunity Act for foreign bank offices, and Edge and Agreement corporations.

Section 12(e) amends the Fair Debt Collection Practices Act to specify the enforcement authority under the Fair Debt Collection Practices Act for foreign bank offices, and Edge and Agreement corporations.

Section 12(f) amends the Electronic Fund Transfer Act to specify the enforcement authority under the Electronic Fund Transfer Act for foreign bank offices, and Edge and Agreement corporations.

Section 12(g) amends the Federal Trade Commission Act to provide for a definition of the term "banks" which includes foreign bank offices and to specify enforcement authority under the Federal Trade Commission Act for foreign bank offices, and Edge and Agreement corporations.

Section 12(h) amends the Expedited Funds Availability Act to specify enforcement authority under the Expedited Funds Availability Act for foreign bank offices.

EXPLANATION FOR RECOMMENDATIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM TO STRENGTHEN SUPERVISION OF FOREIGN BANK OPERATIONS IN THE UNITED STATES

1. FEDERAL REVIEW OF THE ESTABLISHMENT OF STATE BRANCHES AND AGENCIES AND COMMERCIAL LENDING COMPANIES BY FOREIGN BANKS

Foreign banks currently have the option of obtaining either a federal or state license to

establish a branch or agency in this country. The Office of the Comptroller of the Currency ("OCC") licenses federal branches and agencies, which must adhere to the provisions of the National Bank Act. A number of states also permit foreign banks to establish branches and agencies. In addition, New York State allows foreign banks to acquire commercial lending companies, entities that accept credit balances and engage in other banking activities and are thus similar to an agency of a foreign bank. Under current law, there is, however, no federal review of the foreign bank or its management, resources, and operations in connection with the issuance of these state licenses. Of the 15 jurisdictions that license foreign bank offices, two (New York and Florida) solicit the views of the Federal Reserve Board ("Board"). Currently, 94 percent of the assets of foreign bank branches and agencies, and approximately 85 percent of the individual offices, operate under state licenses.

In 1974, when the Board proposed legislation to govern the operations of foreign banks in the United States, the Board recommended that every foreign bank receive a federal license to conduct a banking business in the United States. Moreover, the Board recommended that branches and agencies of foreign banks be treated as if they were member banks, thereby subjecting them to Board supervision.

Although this recommendation was not fully adopted in the International Banking Act of 1978 ("IBA"), the Board remains of the view that entry into the United States by a foreign bank should be subject to review at the federal level to provide a comprehensive consideration of relevant federal issues and to ensure that uniform financial, managerial and operational standards for entry into the United States are applied. Under the IBA, the Board has certain responsibilities for the supervision of a foreign bank in the United States, but no federal agency has authority to decide which foreign banks should gain entry into this country through state branches and agencies or, for that matter, through representative offices. The Board believes that the federal agency responsible for supervision of foreign banks in the United States should have a role in determining whether such an institution may establish, or retain—where relevant legal and supervisory standards have been violated—a U.S. banking presence. Under the legislative proposal, the Board would review applications by foreign banks to establish state branches, agencies, or commercial lending companies. The OCC would continue to approve the licenses of federal branches and agencies of foreign banks, but the OCC and the Board would consult with each other on applications to assure uniformity.

If this proposal is adopted, a number of factors should be included in the statute to provide standards for approving or denying an application by a foreign bank to establish a state licensed office in the United States. These standards should be incorporated into the statute governing establishment of federal branches and agencies as well. The applicable standards would include: whether an applicant engages in banking abroad and is subject to comprehensive supervision in its home country; whether the home country regulator has approved the U.S. office; the financial and managerial resources of the foreign bank; whether the foreign bank has provided adequate assurances on the availability of information to the U.S. regulator to determine and enforce compliance by the foreign bank with U.S. law; and whether the

foreign bank is in compliance with applicable U.S. law.

2. AUTHORIZATION TO TERMINATE ACTIVITIES OF FOREIGN BANK OFFICES FOR VIOLATIONS OF LAW OR UNSAFE AND UNSOUND PRACTICES

No federal agency currently has the authority to terminate the licenses of any state branches or agencies of foreign banks, even in the case of criminal activities. Termination of the licenses of state branches and agencies and commercial lending company subsidiaries of foreign banks remains a matter of discretion for the states, although the OCC has the authority to terminate the licenses of federal branches and agencies of foreign banks. Legislation that is currently pending would generally require that the branches and agencies of a foreign bank convicted of money laundering be closed. The Board recommends that the IBA be revised to permit the Board to terminate the activities of a state branch or agency on the basis of the violation of a civil or criminal law or the conduct of an unsafe or unsound banking practice that demonstrates that the maintenance of a U.S. office by the foreign bank would be inconsistent with the public interest and the purposes of the relevant banking statutes. These standards should also apply to the termination of the licenses of federal branches and agencies.

The Board may discover, in the exercise of its examination authority, violations of law in federally licensed offices—that is, those licensed by the OCC to operate under rules governing national banks. As a result, the proposed legislation would provide that the Board could make a recommendation to the OCC on the termination of the federal licenses of federal branches and agencies of foreign banks under the same standards as apply to the termination of the activities of state branches and agencies.

Finally, the Board recommends that the Bank Holding Company Act ("BHC Act") be amended to allow the Board to deny applications to acquire bank subsidiaries in the United States unless adequate assurances are given with respect to access to information about an applicant and its principles and affiliates that is necessary in administering the Board's responsibilities under the Act. The Board also recommends that the BHC Act be amended to permit the Board to disapprove an application involving a foreign bank that is not subject to comprehensive regulation on a consolidated basis by the appropriate supervisory authorities in the foreign bank's home country.

3. EXAMINATION OF THE U.S. OFFICES OF FOREIGN BANKS AND THEIR AFFILIATES IN THE UNITED STATES

Under the IBA, the Board is given residual examination authority over all branches and agencies and other offices of foreign banks in the United States. The IBA contains a directive requiring the Board to use "to the extent possible" the examination reports of the Federal Deposit Insurance Corporation ("FDIC"), the OCC, and the states. As a result, the practice has been that the various U.S. offices of a foreign bank are examined at different times and by different regulators.

The Board proposes that the IBA be amended to remove the requirement that the Board defer to other regulators "to the extent possible" in exercising its examination authority. Under the proposed provision, it is anticipated that the Board would consult with the state authorities as to the frequency and type of examination program. The Board currently confers with state au-

thorities with respect to state member banks to determine whether examinations are made on a joint or alternate year basis, or whether the Board itself will conduct examinations on an annual basis. The Board also believes that it is important that there be explicit Congressional authorization for the coordination of examinations of foreign bank offices in the United States, including authority to call for simultaneous examinations where appropriate.

4. SUPERVISION OF REPRESENTATIVE OFFICES OF FOREIGN BANKS IN THE UNITED STATES

A representative office generally operates as a loan production office for a foreign bank; the office may conduct representational and administrative work on behalf of the bank but no credit or other business decisions may be made at, or by, the personnel of the office. A representative office may not itself conduct any banking activities, including deposit-taking, securities trading, foreign exchange dealing, and other similar banking activities. Currently, a foreign bank may open a representative office in the United States without approval by a federal bank regulatory agency. The relevant state grants the license; thereafter, the foreign bank must register with the U.S. Department of the Treasury ("Treasury"). Under its authority to register representative offices, Treasury maintains a list of foreign bank representative offices, which is periodically updated.

These types of offices by themselves are generally not examined by a federal regulator to determine whether they are complying with restrictions on the activities of representative offices. The Board does not have the same explicit authority to examine these offices under the IBA as it has with respect to branches and agencies. If a foreign bank has a branch, agency, or subsidiary bank in the United States, the foreign bank is subject to provisions of the BHC Act, including the examination provisions. The Board could use its authority under the BHC Act to examine representative offices of foreign banks that have a banking office or bank in this country. If, however, a foreign bank maintains only representative offices in the United States, the Board currently would have no authority to examine the offices.

Recent experience has demonstrated that unlawful activities may be conducted out of unsupervised representative offices. In the case of The National Mortgage Bank of Greece, the bank had engaged in illegal deposit-taking through a chain of representative offices in the United States. The Board ordered the bank to terminate the illegal activities and to pay a substantial civil penalty. In light of this experience, the Board believes that it would be consistent with its oversight responsibilities under the IBA to approve and examine representative offices of foreign banks.

The Board recommends that the IBA be amended to require that foreign banks receive the prior approval of the Board in order to establish representative offices and, consistent with its role as the federal supervisory authority for foreign banks, that the Board be designated the appropriate federal banking agency for such offices, with the authority to examine the offices for compliance with law and regulation.

5. REPORTING REQUIREMENTS FOR LOANS SECURED BY MORE THAN 25 PERCENT OF THE STOCK OF AN INSURED DEPOSITORY INSTITUTION

Under current law, any U.S. insured depository institution (including a holding com-

pany of such institution) must report to the appropriate federal banking agency when it makes a loan secured by 25 percent or more of the stock of another insured depository institution, if the borrower has not owned the stock for at least one year prior to the loan. The purpose of this requirement is to help ensure that control is not exercised over an institution through bank stock loans.

The current reporting requirement applies only if the loan is made by an insured depository institution or its parent holding company. The requirement does not apply to loans extended by foreign banks that do not operate an insured branch or a bank subsidiary in the United States, or affiliates of either foreign bank or domestic holding companies. It is also unclear whether the current reporting requirement extends to loans to a group of persons acting together to acquire control of an insured depository institution.

Recent experience indicates the need to extend this reporting requirement to bank stock loans made by any foreign bank operating in this country, as well as to bank stock loans made by any affiliate of such a foreign bank. This experience also indicates the need to clarify that loans by one organization to a group of persons acting together to control a bank must be reported. This expansion of the reporting requirements would better serve the purposes of the current statute, which is to monitor the use of loans to control U.S. banking institutions.

The Board, therefore, recommends that the Change in Bank Control Act be amended to provide that loans secured by 25 percent or more of the outstanding shares of an insured depository institution or its holding company must be reported to the appropriate federal banking agency where the loans are made by (1) any foreign bank that operates in the United States, (2) any affiliate of such foreign bank, or (3) any affiliate of a domestic bank or bank holding company.

6. SHARING OF BANK EXAMINATION INFORMATION WITH FOREIGN SUPERVISORS

The Crime Control Act of 1990 permits a federal banking agency to share information with a foreign banking authority under certain circumstances in connection with an investigation of a violation of a law or regulation within the jurisdiction of the foreign authority. As agencies responsible for the supervision of banks operating internationally, it is both useful and appropriate for the federal banking agencies to be able to share supervisory information with their foreign counterparts in circumstances other than investigations. For example, in some cases, the federal banking agencies would look to a foreign supervisor to help carry out corrective actions with respect to a foreign bank's operations in the United States.

The Board recommends that legislation be enacted to clarify that relevant information may be shared with foreign bank supervisory authorities where there is an agreement providing adequate safeguards for the confidentiality of the information and where the sharing of the information would not prejudice the interests of the United States. The latter requirement is also contained in the Crime Control Act of 1990.

7. PRIOR APPROVAL FOR THE ACQUISITION BY A FOREIGN BANK WITH OPERATIONS IN THE UNITED STATES OF MORE THAN 5 PERCENT OF THE SHARES OF A BANK OR A BANK HOLDING COMPANY

Section 8(a) of the IBA provides that a foreign bank that operates a branch, agency, or commercial lending company in the United States shall be subject to the provisions of

the BHC Act as if it were a bank holding company, except that such a foreign bank is not considered a bank holding company for purposes of section 3 of the BHC Act. The effect of this exception is that a foreign bank that maintains only branches and agencies, but does not own a bank, in the United States is not required to obtain the Board's prior approval before acquiring less than 25 percent of the shares of a bank or bank holding company.

Under the BHC Act, domestic bank holding companies are required to obtain approval to acquire more than 5 percent of the shares of another bank or bank holding company. This requirement for prior review ensures compliance with the control, financial and managerial, and public interest standards under the BHC Act. The Board recommends that this exception in the IBA be eliminated in order that all institutions engaged in a commercial banking business in the United States be subject to the same rules with respect to the acquisition of shares in U.S. banks.

8. CIVIL PENALTIES FOR VIOLATION OF THE INTERNATIONAL BANKING ACT OF 1978

The IBA was enacted before most banking laws were amended to authorize the assessment of civil penalties for violations of law, and has never been amended to incorporate such penalties. The Board recommends that the IBA be amended to allow the appropriate federal banking agency to assess civil penalties for violation of the IBA in a manner consistent with other banking statutes.

9. INVESTIGATIVE AUTHORITY UNDER THE INTERNATIONAL BANKING ACT OF 1978

The Board proposes that section 13(b) of the IBA be amended to add a provision specifically granting the federal banking agencies authority to conduct investigations under the IBA and to issue subpoenas and take depositions in connection with such investigations. These revisions conform with the current authority of the banking agencies under other federal banking statutes.

10. AMENDMENT TO MANAGERIAL STANDARDS IN THE BANK HOLDING COMPANY ACT

Section 3 of the BHC Act requires the Board to consider, among other things, the "managerial resources" of any company that seeks to acquire a bank and of the bank to be acquired. This standard permits the Board to evaluate the managerial capabilities and experience of the company making the acquisition as well as that of the bank to be acquired. However, in a case involving a foreign individual, a judicial decision has raised some question about the ability of the Board to deny a proposed bank acquisition under the BHC Act based on the character or integrity of a principal shareholder of the acquiring company unless the shareholder proposes to be actively involved in the management of the company or bank.¹ In contrast, the Board could disapprove a direct acquisition of a bank by an individual under the Change in Bank Control Act, even where the individual does not propose to be directly involved in the management of the bank, if the Board found that the individual's competence, experience, or integrity is adverse.

In order to clarify that the managerial standard in the BHC Act currently encompasses the same factors applicable under the Change in Bank Control Act, the Board proposes that section 3(c) of the BHC Act be amended to state specifically that the Board's consideration of managerial re-

sources of a company or bank shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank. This revision to the BHC Act would apply to proposed acquisitions by foreign as well as domestic entities.

11. ENFORCEMENT AUTHORITY IN THE FEDERAL BANKING AGENCIES FOR CONSUMER PROTECTION

Foreign bank officers in the United States are currently subject to the various consumer protection statutes relating to financial institutions, such as the Truth in Lending Act, the Equal Credit Opportunity Act, and the Fair Credit Reporting Act. Technically, however, the enforcement authority for such statutes is the Federal Trade Commission. The enforcement authority for foreign bank offices with respect to the House Mortgage Disclosure Act is the Secretary of Housing and Urban Development. In contrast, the enforcement authority for domestic banks under the consumer statutes lies with the appropriate federal banking agency.

Most foreign bank offices in the United States do not operate a retail business and, therefore, do not make the types of loans that are subject to the various consumer protection laws. Some branches and agencies of foreign banks, however, engage in some consumer lending and are examined for compliance. Consequently, and consistent with the principle that foreign bank branches and agencies in the United States should be subject to supervision that parallels the supervision of domestic banks, the Board recommends that the examination and enforcement function for these offices be centralized in the appropriate federal banking agency.

The Board also notes that this same anomaly exists with respect to Edge and Agreement corporations. Consequently, as the Board supervises these entities, it recommends that various consumer statutes be amended to make the Board the appropriate enforcement agency.

● Mr. GARN. Mr. President, I join my colleague, Senator RIEGLE, in introducing the Foreign Bank Supervision Enhancement Act of 1991 by request. This legislation has its origins in the investigation by the Federal Reserve Board into illegal activities of the Banca Nazionale del Lavoro and the Bank of Credit and Commerce International, or BCCI. It addresses very serious problems—money laundering and illegally channeling funds to Iraq.

It was in the course of pursuing these cases and others involving illegal activities by foreign banks that the Fed determined that it lacked the full range of tools necessary to investigate and punish illegal activities by foreign banks. Consequently, the Board of Governors has transmitted the legislative package we are introducing today to fill the gaps that have been identified. There has, of course, been little opportunity fully to review this legislation and I am not prepared at this moment to state that I support everything that is in it. However, the bill addresses some important issues that have long been of concern to me.

Money laundering is a critical issue facing the country because the movement of illegal drug money is the lifeblood of the drug trade that afflicts our

¹ *Security Bancorp v. Board of Governors of the Federal Reserve System*, 655 F.2d 164 (9th Cir. 1980), vacated as moot, 454 U.S. 1118 (1981).

society. I cosponsored a package of money laundering amendments in the 101st Congress intended to stem the flow of these funds, and supported its eventual passage in the Senate. To the extent that these amendments will successfully build upon our past efforts in this area, as the Fed indicates that they will, I support them.

Regarding the broader issue of improving regulation of international banks in the United States, this too is a matter in which I have long taken an interest. Consistent regulation by governments is important to the safety of the international financial system and to the competitiveness of U.S. banks at home and abroad. For these reasons, I helped enact the International Banking Act of 1978, the original legal basis for Federal regulation of the operations of foreign banks in the United States which this bill amends. I have been supportive of efforts by the Basle Committee of bank regulators to improve coordination and strengthen international capital standards. I have been working to ensure equality of competitive opportunity abroad for U.S. banks through enactment of the Fair Trade in Financial Services Act.

The Fed has identified a number of areas in which it believes that stronger Federal authority is required, particularly an approving entry into the United States and in strengthening reporting and supervision. I intend to work with the Fed to improve supervision of foreign banks, to ensure equality of competitive opportunity for U.S. and foreign banks, and to eliminate conditions that permitted abuses like those in the Banca del Lavoro and BCCI cases to go undetected.

I urge my colleagues to give this legislation serious attention. I look forward to its timely consideration by the Banking Committee. •

By Mr. HELMS:

S. 1020. A bill to make available non-discriminatory (most-favored-nation) trade treatment to the People's Republic of China only if certain conditions are met; to the Committee on Finance.

MOST-FAVORED-NATION STATUS FOR CHINA

Mr. HELMS. Mr. President, newspapers, magazines, and the rest of the media all around the world are making a case against Communist China. For example, and only an example, is the April 28 edition of the Sunday Times of London which had this headline: "China Helps Algeria Build First Arab Atom Bomb."

A few days earlier, on April 16, the Toronto Globe and Mail, a very fine newspaper, had this headline: "Beijing Secretly Imprisons Pro-democracy Activist." And then, Business Week, on April 22, had this headline: "China's Ugly Export Secret: Prison Labor."

It is no longer much of a secret, Mr. President, that Communist China is responsible for nuclear weapons and bal-

listic missile exports to the Middle East, arms and other support for the Communist Khmer Rouge, the invasion and subjugation of Tibet, millions of political prisoners, slave-labor exports to the United States, Japan, and Europe. The list of these crimes committed by the Communist leadership of mainland China goes on and on.

Mr. President, there comes a time to say enough is enough, and I am today introducing S. 1020, an amendment to the Tariff Act of 1930, which will reform our relations with the Communist Chinese and put them on a more realistic basis.

Mr. President, S. 1020 specifically proposes to set sound and reasonable criteria for extending MFN to Communist China. I may say parenthetically that unless and until this happens, I shall never, as one Senator, favor MFN for Communist China.

Specifically, S. 1020 stipulates that in order for Communist China to continue to enjoy most-favored-nation treatment—MFN—and enjoy this trading status with the United States, the President must certify to this Congress—both the House and Senate—that the Communist Chinese Government has, one, become a party to the Nuclear Non-proliferation Treaty and has accepted the guidelines of the Missile Technology Control Regime; two, has demonstrated that it has ceased arming the Khmer Rouge; three, has released all political prisoners and ceased slave-labor exports to this country and others; and, four, has demonstrated that it has opened negotiations with Tibet and accepted international standards of human rights.

So S. 1020, which I am introducing today might be called five noes and two yeses. The noes, no nuclear weapons exports; no ballistic missile exports; no arms for the Khmer Rouge; no political prisoners; and no slave-labor exports.

The two yeses: One, Red China must negotiate with Tibet; and two, Red China must adopt some international human rights standards. Otherwise, as far as this Senator is concerned, no MFN for Red China. Enough is enough.

We may hear the argument the Communist Chinese will only retaliate against our exports if the United States adopts such legislation. We already heard that on the radio this morning, but the problem with that argument, Mr. President, is that the Communist Chinese have already retaliated against us.

On May 3, the Wall Street Journal reported accurately that the Communist Chinese State Council, "issued a secret directive that in effect bans U.S. companies from the world's largest telephone market." That is not all.

According to the State Department, the distinguished U.S. Ambassador, the Honorable James Lilley, told the Department that "free trade (with Communist China) is not working in a way

that benefits us the way it should." I know Jim Lilley well, and I respect him and admire him. But Jim is guilty only of an understatement. Eighteen months ago, as a matter of fact, Ambassador Lilley urged the administration to retaliate—to no avail.

The trade results that I have just recited describe exactly what have been going on. Since the Tiananmen Square massacre, United States exports to Communist China have declined by \$200 million, and China's exports to the United States have increased by \$7 billion.

Just for emphasis, this label says, "Communist China Most-Favored-Nation Trade Status." And remember, I said five noes and two yeses: No nuclear weapons exports; no ballistic missiles exports; no arms for Khmer Rouge; no political prisoners; no slave labor; and, yes, Red China must negotiate with Tibet; and, yes, Red China must adopt international human rights standards.

S. 1020, in conclusion, Mr. President, should be regarded as a minimum standard for entry into the normal comity of nations. It does not ask for much; only that the Communist Chinese Government treat its own citizens decently and not contribute to death and destruction in the Middle East.

Mr. President, I ask unanimous consent that the text of S. 1020 be printed in the RECORD.

S. 1020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONDITIONAL EFFECTIVENESS OF WAIVER FOR PRC.

(a) FINDINGS.—The Congress finds that the Government of the People's Republic of China has—

(1) exported ballistic missiles and nuclear weapons technology to the Middle East thereby undermining regional peace and stability;

(2) armed and supported the communist Khmer Rouge;

(3) imprisoned millions of its own citizens for their political and religious beliefs;

(4) exported to the United States, Japan, and Europe, the forced labor products of its prison system;

(5) invaded and subjugated Tibet; and

(6) generally violated international standards of human rights.

(b) CONDITIONAL WAIVER.—Title IV of the Trade Act of 1974 is amended by adding at the end thereof the following new section:

"SEC. 412. CONDITIONAL EFFECTIVENESS OF WAIVER FOR PRC.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the waiver authority granted under section 402(c) with respect to the People's Republic of China, which has been extended under section 402(d), shall not be effective unless the President certifies to the Congress that the People's Republic of China—

"(1) has become a party to the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968;

"(2) has adopted the principles of the Missile Technology Control Regime (MTCR);

"(3) has ceased exports of goods which are the product of forced labor;

"(4) has released all political prisoners;

"(5) has begun negotiations with the Dalai Lama or his representatives leading to a peaceful resolution of the Tibet conflict;

"(6) has ceased providing support for the Khmer Rouge; and

"(7) respects international standards of human rights.

"(b) DEFINITION.—For purposes of this section—

"(1) The term 'forced labor' means all work or service which is exacted from any person under the menace of any penalty for its non-performance and for which the worker does not offer himself voluntarily.

"(2) The term 'Missile Technology Control Regime' or 'MTCR' means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology."

"(c) CONFORMING AMENDMENT.—Title IV of the table of contents of the Trade Act of 1974 is amended by adding at the end thereof the following new item:

"Sec. 412. Conditional effectiveness of waiver for PRC."

By Mr. MCCAIN:

S. 1021. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of long-term care insurance and accelerated death benefits, and for other purposes; to the Committee on Finance.

PRIVATE LONG-TERM CARE INSURANCE AND ACCELERATED DEATH BENEFITS INCENTIVE ACT OF 1991

• Mr. MCCAIN. Mr. President, I rise today to introduce legislation to expand the private long-term care insurance market by making coverage more affordable and accessible to our Nation's seniors. The bill I am introducing today forms the second of three measures needed to provide our Nation's seniors with comprehensive long-term care coverage.

Poll after poll, and letter after letter, tell us that the principal health care coverage concern of our Nation's elderly is any illness that requires long-term care. With the cost of an annual stay in a nursing home averaging some \$33,000, this is not surprising. In fact, Mr. President, I believe this is where Congress really erred with regard to the now repealed Medicare Catastrophic Coverage Act. Had that act not gone as far as it did on the acute care side, but assisted the elderly with protection from long-term care expenses, it would have fared much better because it would have dealt with the seniors' true catastrophic illness concern—long-term care.

The Private Long-term Care Insurance and Accelerated Death Benefit Incentive Act of 1991, which has been introduced in the House by Congressman GRADISON, would expand the private long-term care insurance market by making the coverage more affordable and accessible to our Nation's seniors.

This bill, coupled with S. 846, legislation intended to establish Federal standards for long-term care insurance policies, would provide comprehensive Federal standards for long-term care insurance policies.

I am still working with seniors in my State of Arizona and around the country on the issue of expanded public sector participation in long-term care. There are significant questions that have yet to be resolved, including, what coverage should be provided through the public sector program and who should be eligible.

Without a doubt, the problem of long-term care is massive. Most Americans do not have adequate coverage from these often ruinous expenses. A complete approach to the problem will require the involvement of both the private and public sectors. When people are able to afford it, however, private long-term care insurance policies should—and must—be part of the solution. The market, at this point, however, is not that attractive to most. For example, the law provides a tax deduction for the purchase of acute care health insurance, but does not do so for long-term care policies. This bill would make premiums for long-term care policies tax deductible. Second, employers are not currently able to exclude premiums paid for employee long-term care policies and permit them to be offered under an employer's cafeteria plan. This bill will change that. And, third, this proposal clarifies that death benefits from a life insurance policy may be paid to a terminally ill individual in the year before death, and would not be taxable. I believe this provision will greatly assist a large number of people in meeting their long-term care needs in such a time of distress.

In order to make sure that long-term care policies are not abused as a tax shelter, the legislation requires that the insured must be certified by a licensed health care practitioner as needing long-term care services before benefits may be received. In addition, tax free benefits are limited to \$200 a day and the policies are prohibited from having a cash surrender value.

Mr. President, I believe this legislation, coupled with S. 846, will spur the development of the private sector long-term care insurance market, while providing consumers with the confidence that the market will be protected from abuse. This will give them confidence about investing their hard-earned resources for their future health care needs. I believe these two bills are necessary to achieve the goal of assisting millions of Americans in protecting themselves from the true catastrophic illness concern—long-term care. I hope that my colleagues will take a hard look at these two bills and consider adding their name as a cosponsor.

Mr. President, I ask unanimous consent that the full text of the legislation I am introducing today be printed in the RECORD following these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Long-Term Care Insurance and Accelerated Death Benefit Incentive Act of 1991."

SEC. 2. TREATMENT OF LONG-TERM CARE INSURANCE OR PLANS.

"(a) GENERAL RULE.—Chapter 79 of the Internal Revenue Code of 1986 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF LONG-TERM CARE INSURANCE OR PLANS.

"(a) GENERAL RULE.—For purposes of this title—

"(1) a long-term care insurance contract shall be treated as an accident or health insurance contract,

"(2) amounts received under such a contract with respect to qualified long-term care services shall be treated as amounts received for personal injuries or sickness, and

"(3) any plans of an employer providing qualified long-term care services shall be treated as an accident or health plan.

"(b) LONG-TERM CARE INSURANCE CONTRACT.—

"(1) IN GENERAL.—For purposes of this title, the term 'long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection under such contract is coverage of qualified long-term care services and benefits incidental to such coverage,

"(B) such contract does not cover expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not have any cash surrender value, and

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be treated as described in paragraph (1)(A) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) CONTRACT MAY COVER MEDICARE REIMBURSABLE EXPENSES WHERE MEDICARE IS SECONDARY PAYOR.—Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund of premiums on surrender or cancellation of the contract.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventative, therapeutic, and reha-

ilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual in a qualified facility, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i)(I) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined by paragraph (B)) due to a loss of functional capacity, or

"(II) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in subclause (I), or

"(ii) having a similar level of disability due to cognitive impairment.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) BATHING.—The overall complex behavior of getting water and cleansing the whole body, including turning on the water for a bath, shower or sponge bath, getting to, in, and out of a tub or shower, and washing and drying oneself.

"(ii) DRESSING.—The overall complex behavior of getting clothes from closets and drawers and then getting dressed.

"(iii) TOILETING.—The act of going to the toilet room for bowel and bladder function, transferring on and off the toilet, cleaning after elimination, and arranging clothes or the ability to voluntarily control bowel and bladder function, or in the event of incontinence, the ability to maintain a reasonable level of personal hygiene.

"(iv) TRANSFER.—The process of getting in and out of bed or in and out of a chair or wheelchair.

"(v) EATING.—The process of getting food from a plate or its equivalent into the mouth.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means—

"(A) a nursing, rehabilitative, hospice, or adult day care facility (including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution)—

"(i) which is licensed under State law, or

"(ii) which is a certified facility for purposes of title XVIII of XIX or the Social Security Act, or

"(B) an individual's home if a licensed health care practitioner certifies that without home care the individual would have to be cared for in a facility described in subparagraph (A).

"(4) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is to provide needed assistance with any of the activities of daily living described in paragraph (2)(B).

"(5) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1816(r) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) CONTINUATION COVERAGE EXCISE TAX NOT TO APPLY.—This section shall not apply in determining whether section 4980B (relating to failure to satisfy continuation cov-

erage requirements of group health plans) applies."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 79 of such Code is amended by inserting after the item relating to section 7702A the following new items:

"Sec. 7702B. Treatment of long-term care insurance or plans."

SEC. 3. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) of the Internal Revenue Code of 1986 (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) or section 213(d)(1) of such Code (as redesignated by subsection (a)) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(2) Paragraph (6) of section 213(d) of such Code is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(3) Paragraph (7) of section 213(d) of such Code is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(c) EXCLUSION FOR BENEFITS.—Subsection (b) of section 105 of such Code is amended by inserting "as benefits under a long-term care insurance contract (as defined in section 7702B(b)) or" after "to the taxpayer".

SEC. 4. TREATMENT OF PREFUNDED LONG-TERM CARE BENEFITS.

(a) IN GENERAL.—

(1) Paragraph (2) of section 419A(c) of the Internal Revenue Code of 1986 (relating to additional reserve for post-retirement medical and life insurance benefits) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting "or," and by adding at the end thereof the following new subparagraph:

"(C) post-retirement long-term care benefits to be provided to covered employees."

(2) The paragraph heading for such paragraph (2) is amended by inserting "LONG-TERM CARE," after "MEDICAL".

(b) RESERVE FOR LONG-TERM CARE BENEFITS MUST BE NONDISCRIMINATORY.—

(1) Paragraph (1) of section 419A(c) of such Code (relating to special limitation on reserves for medical benefits or life insurance benefits provided to retired employees) is amended by inserting "long-term care benefits," after "medical benefits: each place it appears."

(2) The subsection heading for section 419A(e) of such Code is amended by inserting "LONG-TERM CARE BENEFITS," after "MEDICAL BENEFITS".

(c) LONG-TERM CARE BENEFITS.—Subsection (f) of section 419A of such Code is amended by adding at the end thereof the following new paragraph:

"(8) LONG-TERM CARE BENEFIT.—The term 'long-term care benefit' means a benefit which provides (directly or through insurance) qualified long-term care services (as defined in section 7702C(c)). Such term shall not include any benefit provided through insurance unless the employee may elect to

continue the insurance upon cessation of participation in the plan."

(d) RULES FOR CERTAIN TAX-EXEMPT ORGANIZATIONS.—

(1) Clause (ii) of section 512(a)(3)(B) of such Code is amended by inserting before the comma at the end thereof "(including long-term care benefits, as defined in section 419A(f)(8))".

(2) Clause (i) of section 512(a)(3)(E) of such Code is amended by striking "section 419(c)(2)(A) for post-retirement medical benefits" and inserting "subparagraph (A) or (C) of section 419A(c)(2) for post-retirement medical and long-term care benefits".

SEC. 5. QUALIFIED LONG-TERM INSURANCE CONTRACTS PERMITTED TO BE OFFERED IN CAFETERIA PLANS.

Paragraph (2) of section 125(d) of the Internal Revenue Code of 1986 (relating to the exclusion of deferred compensation) is amended by adding at the end thereof the following new subparagraph:

"(D) EXEMPTION FOR LONG-TERM CARE INSURANCE CONTRACTS.—For purposes of subparagraph (A), a plan shall not be treated as providing deferred compensation by reason of providing any long-term care insurance contract (as defined in section 7702B(b)) if—

"(i) the employee may elect to continue the insurance upon cessation of participation in the plan, and

"(ii) the amount paid or incurred during any taxable year for such insurance does not exceed the premium which would have been payable for such year under a level premium structure."

SEC. 6. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.

Subsection (a) of section 1035 of the Internal Revenue Code of 1986 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "or," and by adding at the end thereof the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a long-term care insurance contract."

SEC. 7. TAX TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

Section 101 of the Internal Revenue Code of 1986 (relating to certain death benefits) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, any amount paid or advanced to an individual under a life insurance contract on the life of an insured—

"(A) who is a terminally ill individual, or

"(B) who is a chronically ill individual (as defined in section 7702(c)(2)) who is confined to a qualified facility (as defined in section 7702B(c)(3)), shall be treated as an amount paid by reason of the death of such insured."

"(2) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 12 months or less."

"(3) PHYSICIAN.—For purposes of this subsection, the term 'physician' has the meaning given to such term by section 213(d)(4)."

SEC. 8. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

"(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—

Section 818 of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of the subsection, the term 'qualified accelerated death benefit rider' means any rider or addendum on, or other provision of a life insurance contract which provides for payments to an individual on the life of an insured upon such insured—

"(A) becoming a terminally ill individual (as defined in section 101(g)(2)), or

"(B) becoming a chronically ill individual (as defined in section 7702B(c)(2)) who is confined to a qualified facility (as defined in section 7702B(c)(3))."

(b) DEFINITIONS OF LIFE INSURANCE AND MODIFIED ENDOWMENT CONTRACTS.—

(1) RIDER TREATED AS QUALIFIED ADDITIONAL BENEFIT.—Paragraph (5)(A) of section 7702(f) of such Code is amended by striking "or" at the end of clause (iv), by redesignating clause (v) as clause (iv), and by inserting after clause (iv) the following new clause:

"(v) any qualified accelerated death benefit rider (as defined in section 818(g)(2)) or any long-term care insurance contract rider which reduces the death benefits, or".

(2) TRANSITIONAL RULE.—For purposes of applying section 7702 or 7702A of the Internal Revenue Code of 1986 to any contract (or determining whether either such section applies to such contract), the issuance of a rider or addendum on, or other provision of, a life insurance contract permitting the acceleration of death benefits (as described in section 101(g) of such Code) or payments for qualified long-term care services (as defined in section 7702B of such Code) shall not be treated as a modification or material change of such contract.

SEC. 9. INCLUSION IN INCOME OF EXCESSIVE LONG-TERM CARE BENEFITS.

(a) IN GENERAL.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 91. EXCESSIVE LONG-TERM CARE BENEFITS.

"(a) GENERAL RULE.—Gross income for the taxable year of any individual includes excessive long-term care benefits received by or for the benefit of such individual during the taxable year.

"(b) EXCESSIVE LONG-TERM CARE BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the term 'excessive long-term care benefits' means the excess (if any) of—

"(A) the aggregate amount which is not includable in the gross income of the individual for the taxable year by reason of the amendments made by the Private Long-Term Care Insurance and Accelerated Death Benefit Incentive Act of 1991 (determined without regard to this section and section 101(g)), over

"(B) the aggregate of \$200 for each day during the taxable year that such individual—

"(i) was a chronically ill individual (as defined in section 7702B(c)(2)), and

"(ii) was confined to a qualified facility (as defined in section 7702B(c)(3)).

"(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 1991, the

\$200 in paragraph (1)(B) shall be increased by an amount equal to—

"(A) \$200, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1990' for 'calendar year 1989' in subparagraph (B) thereof.

If any dollar amount determined under this paragraph is not a multiple of \$10, such dollar amount shall be rounded to the nearest multiple of \$10 (or, if such dollar amount is a multiple of \$5, such dollar amount shall be increased to the next higher multiple of \$10)."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"SEC. 91. Excessive long-term care benefits.

SEC. 10. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.●

By Mr. GRAHAM:

S. 1023. A bill to authorize additional appropriations for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center; to the Committee on Labor and Human Resources.

ADDITIONAL APPROPRIATIONS FOR THE MARY MCLEOD BETHUNE MEMORIAL FINE ARTS CENTER

● Mr. GRAHAM. Mr. President, today I am introducing legislation that brings appropriate recognition to one of this century's most outstanding African-Americans, Dr. Mary McLeod Bethune. This bill will memorialize Dr. Bethune's commitment to providing equal access to higher education for all Americans by expanding facilities at the Mary McLeod Bethune Fine Arts Center located at Bethune-Cookman College in Daytona Beach, FL.

Dr. Bethune was born into poverty in the cotton fields of South Carolina in 1875. One of 17 children, her parents were former slaves. At an early age, she recognized the opportunity of education and committed herself to the education of her people.

In 1904, she opened a school for women in Daytona Beach using her own sparse funds and the limited resources available to her. Drawing upon her inner strength, forceful leadership, and single-minded devotion, the college survived and expanded in 1923 to become the Bethune-Cookman College. The college has since flourished and is now an outstanding postsecondary institution in the State of Florida.

Mrs. Bethune's influence, however, extended far beyond the border of our State. She served at the request of President Hoover at the White House Conference on Child Health and Protection. President Roosevelt counted her as a close adviser and appointed her to the Advisory Committee of the National Youth Administration and later gave her the task of establishing an Of-

fice of Minority Affairs. In 1935, she founded the National Council of Negro Women, which she represented before the United Nations.

Mr. President, Mary McLeod Bethune was a woman of strength and character who gave of herself to improve the lives of others. Her selfless devotion to the struggles of African-Americans is memorialized here in Washington by a statue located in Lincoln Park, not far from this building. I encourage every one of my colleagues to visit this site to gain a better understanding of this courageous woman who was truly a pioneer of the civil rights movement.

Today I am introducing this bill, along with my colleague from Florida, Representative GRAIG JAMES. It is a fitting tribute to Dr. Bethune's leadership in higher education and represents a continuation of the Federal Government's commitment to assisting historically black colleges and universities in providing quality education to African-American students. This bill authorizes \$9.5 million to expand facilities at the Bethune-Cookman College Fine Arts Center, which bears the name of its founder. It will allow the college to take another step in its long-standing tradition of excellence in education and I strongly urge my colleagues to lend it their support.●

By Mr. HELMS:

S. 1027. A bill to extend to January 1, 1995, the existing suspension of duty on m-Toluic acid; to the Committee on Finance.

DUTY-FREE STATUS FOR METATOLUIC ACID

Mr. HELMS. Mr. President, today I am introducing legislation to restore the duty-free status of metatoluic acid [MTA]. The duty-free status on MTA as originally granted in 1984, when I introduced a bill at the request of Mr. Gary F. Taft, president of Morflex Chemical Co. in Greensboro, NC. It was extended in 1987 but expired at the end of 1990.

Mr. President, Morflex is the world's largest manufacturer of DEET, the active ingredient in mosquito repellents. MTA is the key raw material used to produce DEET.

The only domestic producer of MTA is the Argus Division of Witco Corp. Previously, this duty has been suspended despite the domestic production by the Argus Division because it was clear that it could not produce enough MTA to meet the domestic demand.

When I was preparing to introduce an extension of the duty suspension in the 101st Congress, I received a letter from Witco Corp., indicating that the company has relocated its manufacturing facility from Brooklyn, NY, to Taft, LA. Witco informed me that because of significant capital investments it has made in its new manufacturing facility, it will be able to increase its production capacity.

Unfortunately, there was still some dispute about whether Witco will be

able to meet the increased domestic demand. Due largely to the prevalence of Lyme's disease, the demand for DEET has increased significantly. It is estimated that U.S. industry will need about 3 million pounds of MTA per year.

Mr. President, because of the open question about the ability of Witco to meet domestic demand for DEET, I introduced a duty-suspension bill in the Senate to prompt the International Trade Association [ITA] to initiate an investigation to determine whether an extension of the duty suspension is appropriate. The 101st Congress ended before we could get any results from the ITA.

I have agreed to introduce another duty-suspension bill for DEET with the understanding that the ITA will analyze the new market demands and the new domestic production capability so we can judge whether this duty-suspension should be restored.

By Ms. MIKULSKI (for herself and Mr. ADAMS):

S. 1028. A bill to authorize increased funding for international population assistance and to provide for a U.S. contribution to the United Nations Population Fund; to the Committee on Foreign Relations.

POPULATION ASSISTANCE ACT

Ms. MIKULSKI. Mr. President, today Senator BROCK ADAMS and I are introducing a bill to set spending goals and policy guidelines on international family planning assistance.

Our bill would:

Authorize family planning assistance of \$570 million, an increase of roughly \$200 million over current spending.

Authorize a \$65 million U.S. contribution to the United Nations Population Fund [UNFPA]. The UNFPA, with offices in 140 countries, is the most efficient Government deliverer of family planning services. The United States administration cutoff United States contributions in 1985 in the wake of groundless accusations that the UNFPA Program in China was connected with forced abortions and sterilizations in that country. The House and Senate have voted on several occasions to resume funding of UNFPA, but President Bush's veto caused the funding to be dropped. To be absolutely certain that no United States funds are in any way connected to the despicable activities in China, our bill requires that United States funds be kept in a separate account, that no United States funds be spent in China, and that if any United States funds are used for programs in China or abortions anywhere, the United Nations will refund the full contribution to the United States.

Provide that at least half of any increase in family planning funding will be used in countries with the highest population growth rates;

Set \$100 million as a target for family planning spending from the Development Fund for Africa; and

Prohibit the use of abortions as a method of family planning and require that clients be advised of the full range of family planning options available to them.

The world's population has increased by 1.5 billion since 1975. It is obvious that population pressure is a key cause of global warming, deforestation, hunger, poverty and maternal, and child mortality. We need to increase our financial commitment to curbing population growth, and we need to make our spending more effective by channeling our money through the most efficient delivery systems.

Mr. President, I ask unanimous consent that the text of our legislation and a column by Hobart Rowen from this morning's Washington Post be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Voluntary Family Planning Assistance Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the population of the world exceeds 5 billion and is growing at an unprecedented rate of approximately 95 million per year;

(2) the vast majority of this growth is occurring in the poorest countries, those least able to provide even the most basic services for their citizens;

(3) the demands of growing populations are contributing substantially to environmental devastation, famine, economic stagnation, and political and social instability;

(4) the global community has for more than 20 years recognized that it is a fundamental human right for people to voluntarily and responsibly determine the number and spacing of their children, and the United States has been a leading advocate of this right;

(5) the World Bank estimates that an average fertility rate of 2.4 children per woman, the rate needed for eventual population stabilization at present death rates, could be achieved by the year 2000 if the proportion of couples in developing countries using contraception were to rise from the current rate of 40 percent to 72 percent; and

(6) these population goals can be accomplished through a mix of bilateral and international population assistance to make family planning services universally available on a voluntary basis by the year 2000 in order to slow the rate of population growth and therefore reduce pressures on global resources.

SEC. 3. PURPOSE.

The purpose of this Act is to significantly increase funding for investments in international family planning information, contraceptive research, and services to ensure universal access to effective modern contraception.

SEC. 4. ASSISTANCE FOR INTERNATIONAL FAMILY PLANNING PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated \$470,000,000 for fiscal year 1992 to carry out section 104(b) of the Foreign Assistance Act of 1961 (relating to development assistance for population planning).

(2) Of the total amount of funds available to carry out part I of the Foreign Assistance Act of 1961 for fiscal year 1992, the President is urged to use up to \$100,000,000 to carry out chapter 10 of that part (relating to the Development Fund for Africa).

(b) FUNDING FOR UNFPA.—Of the funds appropriated under paragraph (1) of subsection (a), not less than \$65,000,000 shall be available only for the United Nations Population Fund, subject to the following conditions:

(1) The United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds.

(2) None of these funds shall be made available for programs for the People's Republic of China.

(3) Any agreement entered into by the United States and the United Nations Population Fund to obligate these funds shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning programs in the People's Republic of China or for abortions in any country.

(c) INCREASED FAMILY PLANNING SERVICE DELIVERY.—At least 50 percent of the amount appropriated under subsection (a) that is in excess of \$330,000,000 shall be used to increase family planning service delivery in those countries with large population growth or large population growth rates (or both).

(d) LIMITATION ON DIVERSION OF POPULATION FUNDS TO OTHER PROGRAMS.—Funds appropriated under paragraph (1) of subsection (a) shall not be reduced by a proportion greater than other functional development assistance accounts in order to comply with requirements to provide assistance from funds appropriated to carry out chapter 1 of part I or to carry out part I of the Foreign Assistance Act of 1961.

(e) RESTRICTIONS RELATING TO ABORTIONS.—None of the funds appropriated under subsection (a) may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions. In order to reduce reliance on abortion in developing nations, those funds shall be available only for voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services.

[From the Washington Post, May 9, 1991]

FAMILY PLANNING, U.S. POLICY AND THE DEATHS IN BANGLADESH

(By Hobart Rowen)

The death toll has hit a shocking 125,000 in Bangladesh and may reach 200,000. But don't blame it all on the cyclone and floods. The disaster also has its roots in abject poverty, which is linked to environmental problems and excessive population growth.

Bangladesh is a disaster-prone time corner of Asia, suffering from degradation of the watershed in the upper Himalayas that aggravates periodic flooding, creating vast numbers of landless poor. The per-capita income is a miserable \$170 a year.

At the same time, Bangladeshi families produce an average of almost five children,

an improvement over six in the early '80s, but still too high. About 115 million people—equal to about half the U.S. population—are jammed into an area 1/65th the size of the United States. The worst lies ahead: Bangladesh will nearly double to 199 million by the year 2025, according to the World Bank.

Misguided richer nations routinely pump multi-billions of loans into the Third World for economic "development" and then ignore the relative pennies that are needed for family planning or reforestation.

World Bank statistics show that despite money handouts, per-capita income in country after country in Asia and Latin America is declining. With too many mouths to feed, there's no mystery to the result.

Routinely, we hand out condoms in American classrooms these days. Yet because of the power of the antiabortion lobby, normally sensible politicians such as President Bush look the other way when poor mothers and fathers in the Third World beg for modern contraceptive devices and training.

The current crisis in Bangladesh gives added urgency to a report on global population problems sent this week to 300 members of Congress by the Population Crisis Committee, a Washington research agency.

A key recommendation is that Congress boost Agency for International Development funds for family planning from \$322 million this year to \$600 million next year and that AID scrap the "open hostility" evidenced at the very top of the agency and return to the much bolder population-control programs it guided until midway through the Reagan administration.

By promoting the availability and use of modern contraceptive techniques, AID helped slow the pace of population growth in the '60s and '70s. It was one of our real foreign aid success stories, notably in Thailand, Indonesia, Mexico and Bangladesh.

But in 1984 President Reagan allowed then-State Department official James Buckley, as chief U.S. delegate to a population conference in Mexico City, to establish a new and circumscribed American policy. Buckley decided that no AID funds could be used to support any foreign population-control agency if that agency engaged in any abortion-related activities.

"The Mexico City policy says to groups overseas: 'If you use your own resources on abortion, you're ineligible for any grant from us for family planning,'" said the PCC's Joseph Speidel.

"AID programs are plagued by the ghost of the Reagan administration," said PCC Vice President Sharon Camp. "Reagan ideology claimed that population growth is a neutral factor in development—rather than a threat to economic progress, family health and the environment."

There is little doubt that Bush knows better. But he has willingly sublimated lifelong, on-the-record views on the desirability of strong American leadership on this issue to an effort to appease the GOP right wing.

This head-in-the-sand policy needs a new and urgent re-examination. The PCC estimates that 1 million women lose their lives annually in the Third World through illegal abortions. Good family planning could cut that figure in half. The PCC report notes that most demographers believe that the world's population will triple before it stops growing unless more couples adopt some form of birth control by the end of the 1990s.

Family planning advocates are not suggesting using American government money to finance abortions abroad. They want AID to finance what is legal in both the United

States and in most Third World countries. That includes funding a comprehensive family planning program that will help couples obtain modern contraceptives and teach them how to use them effectively. They also want to educate Third World women on the dangers of illegal abortions and generate sex education for adolescents in Africa and Asia.

The United States should restore itself as a world leader in the field of family planning. This is an area where a Democratic leadership looking for issues has a real opening. Polls show that the vast majority of Americans support funding for family planning. Increasingly, environmental organizations that shied away from entanglements with population issues see the nexus between family planning and their own goals, as illustrated in Bangladesh.

Senator Mitchell, Speaker Foley: What are you waiting for?

Mr. ADAMS. Mr. President I am proud to join with Senator MIKULSKI in introducing the International Voluntary Family Planning Assistance Act of 1991. This bill calls for an increase in funding for the international population assistance programs of the Agency for International Development to \$570 million, an increase of roughly \$200 million over current spending. Out of this total, \$65 million would be provided to the United Nations Population Fund [UNFPA], and thus restore AID funding for that organization. In addition, this legislation sets \$100 million as a target for family planning spending from the Development Fund for Africa.

The UNFPA is the world's largest voluntary family planning agency, with programs in 140 countries. In 1986 the Reagan administration, falsely alleging that the UNFPA supported forced abortions and sterilizations in China, terminated all United States Government assistance to the organization. Unfortunately, President Bush has continued this policy. Nonetheless, this bill prohibits the use of United States population funds in China.

Mr. President, the world's population is growing faster today than it ever has before. Every year 94 million more people are added to our planet, and nearly 80 million of them are born into impoverished and already overcrowded nations of the Third World. By 2025, the world's population is expected to rise to between 8 and 10 billion. This growth will place an unprecedented burden on the world's resources, and worsen already pressing problems such as global warming, human hunger, deforestation, maternal and child mortality, and increased poverty in developing nations.

The International Voluntary Family Planning Assistance Act would help restore U.S. leadership in international family planning. It is a bill that would help stabilize global population and provide a fighting chance to those women, children and families living in the poorest areas of the world.

I urge that my colleagues join Senator MIKULSKI and me in cosponsoring

this important piece of legislation. The consequences of uncontrolled population growth are simply too serious to ignore.

By Mr. GORTON:

S. 1030. A bill to authorize private sector participation in providing products and services to support Department of Energy defense waste cleanup and modernization missions; to the Committee on Energy and Natural Resources.

PRIVATE SECTOR PARTICIPATION IN WASTE CLEANUP AND MODERNIZATION ACTIVITIES

• Mr. GORTON. Mr. President, the cleanup of defense nuclear waste and modernization of our weapons complex will be a tremendous undertaking. It will rival in cost and technical challenge the Manhattan project, which was the genesis of most of the wastes. The cleanup effort will require a 30-year commitment at the very least, and will cost upward of \$200 billion.

The Hanford site in the State of Washington has become the flagship for cleanup in the DOE complex. Our Governor, Booth Gardner, led the effort to negotiate a compliance agreement between the State, the Department of Energy, and the Environmental Protection Agency. This tri-party agreement has become the model for negotiating Federal/State compliance agreements for waste cleanup. Our congressional delegation has also worked hard to secure sufficient funding for waste cleanup.

The Federal Government, however, cannot address this problem by itself. The entrepreneurial spirit and innovation of the private sector must be called upon in this mammoth undertaking. As the Secretary of Energy stated in an August 10, 1990 letter: "*** the introduction of the profit motive will ultimately result in a more cost-effective and efficient basis [for cleanup]."

Current law, however, does not adequately allow for private sector participation in defense waste cleanup. The Atomic Energy Act only allows for short term contracting, making it very difficult for industry to recoup its investment over the 30-year period necessary for most cleanup operations. In addition, the existing law is unclear on important health, safety, labor, and liability issues.

Accordingly, I am introducing legislation which specifically authorizes DOE to contract with private firms to provide products and services in connection with defense waste cleanup. This bill authorizes a limited 5-year program, which will allow for long-term defense waste cleanup contracts of up to 30 years. It will ensure that private contractors comply with all relevant environmental, health, and safety statutes, and will protect labor interests by requiring the contractor to comply with existing labor agree-

ments, including site-stabilization agreements. This legislation will also protect the Government's interests by requiring a finding of cost-effectiveness, and by allowing DOE to terminate contracts if the contractor is engaged in unsound practices.

This bill will lower cleanup costs to the Federal Government. This is especially true of up-front capital costs, since they will be borne by the contractors. The bill will also reduce cleanup delays resulting from the congressional appropriations process, and will reduce continued buildup of defense waste. In general, it will result in a more efficient allocation of Federal resources.

Building an effective partnership with the private sector enhances the ability of DOE to reach the milestones set in the tri-party agreement and other compliance agreements. A companion to this bill has already been introduced in the House by Congressman MORRISON, and that bill has a half-dozen cosponsors representing five DOE sites. I hope that my colleagues from States with DOE sites will take a close look at this legislation, and will join me as cosponsors. •

By Mr. KERRY:

S. 1031. A bill to establish a Directorate for Behavioral and Social Sciences within the National Science Foundation, and for other purposes; to the Committee on Labor and Human Resources.

BEHAVIORAL AND SOCIAL SCIENCES DIRECTORATE ACT

• Mr. KERRY. Mr. President, I rise today to introduce the Behavioral and Social Science Directorate Act of 1991. This legislation would create a separate directorate in the National Science Foundation [NSF] for behavioral and social science research activities.

I am introducing this bill to help solve the continuing problem of insufficient NSF funding for behavioral and social sciences. In the last decade, funding for these fields has decreased by almost 40 percent while NSF funding as a whole has increased by nearly 30 percent. As a Senator from a State where academic research—including behavioral, and social science research—is a particular priority, I am concerned that behavioral and social sciences are not being given the support they should. This legislation does not require additional funds, but rather a redistribution of existing resources by creating a new administrative structure.

Currently, the NSF houses behavioral and social sciences in the biological, behavioral and social science [BBS] directorate, a bureau that was created as much for administrative convenience as for scientific philosophy. The need to create a separate directorate does not stem from any scientific conflict. The BBS directorate,

however, has always been headed by a biologist, so no one from the behavioral and social sciences has ever been involved at the higher levels of decisionmaking at NSF. It is unrealistic to expect that a biological scientist would be the most effective spokesperson for areas of science outside his or her discipline. Moreover, the funding patterns over the past decade point to the fact that, this arrangement has had a deleterious effect on the behavioral and social sciences. This act will therefore not only stabilize behavioral and social science funding, but also provide these valuable fields with a greater voice in the leadership of NSF.

Members of the behavioral and social science research disciplines—psychologists, economists, sociologists, political scientists, linguists, and others—are virtually unanimous in their agreement that the problem of inequitable funding is the result of the current administrative structure at the NSF. Their views were heard last November during public hearings conducted by an NSF task force on this issue. By contrast, the hearings found that, representatives of biology organizations did not have strong feelings about this situation. Several declined to take a position, and others stated that they had no objection to a separate directorate. Following the hearings, the task force, the majority of which was comprised of outside experts primarily from biological disciplines, announced its intention to recommend the establishment of a separate directorate for behavioral and social sciences. Unfortunately, NSF has been slow in publishing the task forces' report, and has taken absolutely no steps toward implementing their recommendation.

It should also be noted that in its report for fiscal year 1991, the Senate Appropriations Committee directed NSF to "examine recommendations that NSF create a separate directorate and increase funding for psychology, behavioral science and social science" and "report to the committee by January 31, 1991." In its report to the committee, NSF gave background information on the formation of the existing directorates and on the initial work of the task force, but again gave little information on substantive changes.

Mr. President, the NSF as a whole has fared well over the past decade, and the administration has pledged to double NSF's budget within several years. This legislation will ensure that the foundation's good fortune will be shared by behavioral and social sciences, and that research and funding decisions will be made by those most familiar with the particular science. I ask my colleagues to join me in supporting this legislation and ask that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Behavioral and Social Sciences Directorate Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the contributions of the behavioral and social sciences to the welfare of the Nation have been well-documented in reports by the National Academy of Sciences, in testimony before the Congress, and through other means;

(2) in 1968, the Congress recognized the potential of the behavioral and social sciences to benefit the Nation by providing the National Science Foundation explicit authority to support the social sciences;

(3) Federal funding is essential if the Nation is to realize the potential resulting from advancements in research in the behavioral and social sciences;

(4) the programs carried out by the National Science Foundation in the social and behavioral sciences have, since 1975, been administered by the Directorate for Biological, Behavioral and Social Sciences (an administrative unit of the Foundation), which Directorate has been headed solely by biologists;

(5) financial support provided by the National Science Foundation for research has increased 27 percent in constant dollars since 1980, while financial support provided by the Foundation for research in the psychological and social sciences has fallen by 38 percent in constant dollars during the same period;

(6) Federal financial support for the behavioral and social sciences has fallen by approximately 30 percent in constant dollars since the late 1970's; and

(7) the public welfare regarding the behavioral and social sciences is best served by providing such sciences a status within the National Science Foundation equal to the status provided to disciplines represented in the Foundation through separate directorates.

(b) PURPOSE.—The purpose of this Act is to establish a Directorate for Behavioral and Social Sciences to carry out the functions of the National Science Foundation that relate to the behavioral and social sciences.

SEC. 2. ESTABLISHMENT OF A DIRECTORATE FOR BEHAVIORAL AND SOCIAL SCIENCES WITHIN NATIONAL SCIENCE FOUNDATION.

Section 8 of the National Science Foundation Act of 1950 (42 U.S.C. 1866) is amended to read as follows:

"SEC. 8. DIRECTORATES AND DIVISIONS WITHIN THE FOUNDATION.

"(a) DIRECTORATE FOR BEHAVIORAL AND SOCIAL SCIENCES.—

"(1) ESTABLISHMENT.—There is established within the Foundation a Directorate for Behavioral and Social Sciences.

"(2) ASSISTANT DIRECTOR.—

"(A) IN GENERAL.—The Directorate for Behavioral and Social Sciences shall be headed by an Assistant Director of the Foundation.

"(B) APPOINTMENT.—The Director of the Foundation, in consultation with the Board, shall appoint the Assistant Director, who shall be an individual with expertise and experience in the behavioral and social sciences.

"(C) COMPENSATION.—The Assistant Director shall receive basic pay at the rate pro-

vided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(3) FUNCTION.—The Foundation, acting through the Assistant Director, shall carry out the functions specified in section 3 as such functions relate to the behavioral and social sciences.

"(b) ADDITIONAL DIRECTORATES.—

"(1) AUTHORITY TO ESTABLISH.—There shall be established within the Foundation such directorates, in addition to the directorate established in subsection (a), and such divisions within the directorates, as the Director, in consultation with the Board, may from time to time determine.

"(2) ASSISTANT DIRECTORS.—

"(A) IN GENERAL.—Each additional directorate established under this subsection shall be headed by an Assistant Director of the Foundation, appointed by the Director of the Foundation, in consultation with the Board.

"(B) COMPENSATION.—Each Assistant Director appointed under subparagraph (A) shall receive basic pay at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(C) DUTIES.—Each Assistant Director appointed under subparagraph (A) shall perform duties similar to every other Assistant Director appointed under the subparagraph.

"(c) DEFINITION.—As used in this section, the term 'behavioral and social sciences' includes anthropology, behavioral neuroscience, demography, economics, geography, history, linguistics, political science, psychology and psychological processes, sociology, and any other disciplines commonly understood to be within the realm of the behavioral and social sciences."•

By Mr. DANFORTH (for himself, Mr. LIEBERMAN, Mr. KASTEN, Mr. GRASSLEY, Mr. MCCAIN, Mr. JOHNSTON, Mr. BOND, Mr. GARN, Mr. MACK, Mr. COCHRAN, Mr. SMITH, Mr. LOTT, Mr. CRAIG, Mr. MCCONNELL, Mr. GORTON, Mr. SEYMOUR, and Mr. D'AMATO):

S. 1032. A bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes; to the Committee on Finance.

ENTERPRISE ZONE JOBS CREATION ACT

Mr. DANFORTH. Mr. President, on behalf of myself, Senators LIEBERMAN, KASTEN, GRASSLEY, MCCAIN, JOHNSTON, BOND, GARN, MACK, COCHRAN, SMITH, LOTT, CRAIG, MCCONNELL, GORTON, SEYMOUR, and D'AMATO, I am introducing the Enterprise Zone Jobs-Creation Act of 1991 which will provide the necessary Federal incentives for an effective nationwide enterprise zone program encouraging jobs, opportunity, and entrepreneurship in America's neediest communities.

For the past several years, I have worked to pass rural enterprise zone legislation. Rural America is experiencing some serious problems. Families are losing the land they have farmed for generations. Those, who

managed to keep their farms, are often forced to do so at extreme financial risk. About one-half of all farmers' income has come from sources other than the farm itself. This demonstrates that fewer farmers can make a living in their trade alone.

Many small rural towns can no longer hold out for better times. As tax revenues diminish, schools, libraries, and roads suffer, making economic decline even more difficult to reverse. Rural America's brightest young people are leaving their homes because they see no hope for the future. With businesses closing, there are fewer jobs available, yet more and more rural families need to find work other than farming. I believe congressional help is needed to stimulate development and growth in these areas.

Blight is not limited to rural areas, many urban areas are also becoming economic liabilities. Like rural communities, the tax base in these areas has decreased. The health and welfare of the citizenry in these areas are seriously threatened. Congressional efforts are needed to foster growth in these economically distressed areas.

We need to devise policies that will provide the tools necessary to encourage manufacturing and service industries to consider locating in these areas. We need to create opportunities on many fronts, including new job creation, capital investment, and improved local services. Enterprise zones will address these needs. After all, economic opportunity is the best foundation for strong communities.

Unlike the programs of the past, our bill encourages entrepreneurship and opportunity. Our enterprise zone proposal tries to meet the challenges of urban poverty through job creation and economic development by encouraging a partnership between government—Federal, State, and local—and private enterprise. This partnership is key to economic growth and prosperity for economically depressed communities.

Congress passed enterprise zone legislation in 1987 in the Housing and Community Development Act. The act established 100 enterprise zones with one-third designated to rural areas. Although the act was a step in the right direction, it did not provide any tax incentives.

The Enterprise Zone Jobs-Creation Act of 1991 would designate 50 zones, one-third would be in rural areas. Only seriously distressed areas would qualify for Federal incentives under this program. This legislation includes important Federal tax incentives such as a refundable tax credit for low-income employees, no taxation of certain capital gains realized on tangible enterprise zone assets, expensing by individuals of up to \$50,000 for purchases of enterprise zone stock.

The designation of these zones will be based on the level of distress as well as

the nature and extent of State and local commitment. We want to encourage coordinated and supportive efforts by State and local governments.

New jobs are being created in Missouri as well as other States through the use of enterprise zones. This is a promising tool for creating economic opportunity where it is needed the most.

Missouri established its enterprise zone program in 1982. During the past 6 years, 37 zones have been established in areas with high unemployment. These zones have attracted more than \$682 million in new business investment, leading to the creation of over 13,500 new jobs.

The Enterprise Zone Jobs-Creation Act of 1991 would build on this success. The primary goal of this legislation act is to stimulate the economy in these areas by encouraging new business activity and job creation and by targeting Federal assistance, allowing each community to pursue its own goals and development program. The enterprise zone concept is founded on the belief that local leaders and entrepreneurs—not Washington bureaucrats—hold the key to economic recovery. The success of State zone programs supports this belief. Our bill would promote recovery by fostering economic development without introducing stifling new regulations.

Mr. President, I ask that the text of the bill and a summary of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 1032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enterprise Zone Jobs-Creation Act of 1991".

SEC. 2. PURPOSE.

It is the purpose of this Act to provide for the establishment of enterprise zones in order to stimulate entrepreneurship, particularly by zone residents, the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

- (1) tax relief at the Federal, State, and local levels;
- (2) regulatory relief at the Federal, State, and local levels; and
- (3) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

SEC. 3. AMENDMENT OF THE 1986 CODE.

Except as otherwise expressly provided, whenever an amendment or repeal is expressed in this Act in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—DESIGNATION OF ENTERPRISE ZONES

SEC. 101. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Enterprise Zones

"Sec. 7880. Designation.

"SEC. 7880. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITION.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior, designates as an enterprise zone.

"(2) AUTHORITY TO DESIGNATE.—The Secretary of Housing and Urban Development is authorized to designate enterprise zones in accordance with the provisions of this section.

"(3) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area, and

"(ii) the procedures for designation as an enterprise zone, including a method for comparing courses of action under subsection (d) proposed for nominated areas, and the other factors specified in subsection (e).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 48-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) June 30, 1991.

"(C) NUMBER OF DESIGNATIONS.—

"(i) IN GENERAL.—The Secretary of Housing and Urban Development may designate—

"(I) not more than 50 nominated areas as enterprise zones under this section and

"(II) not more than 15 nominated areas as enterprise zones during the first 12-month period beginning on the date determined under subparagraph (B), not more than 30 by the end of the second 12-month period, not more than 45 by the end of the third 12-month period, and not more than 50 by the end of the fourth 12-month period.

"(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated as enterprise zones, at least one-third must be areas that are—

"(I) within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined using the most recent census data available);

"(II) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)); or

"(III) determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designations under this section unless—

"(i) the local government and the State in which the nominated area is located have the authority to—

"(I) nominate such area for designation as an enterprise zone,

"(II) make the State and local commitments under subsection (d), and

"(III) provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled, and

"(ii) a nomination therefor is submitted by such State and local governments in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall prescribe by regulation.

"(4) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(b) TIME PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the termination date specified by the State and local governments as provided in the nomination submitted in accordance with subsection (a)(3)(D)(ii),

"(C) such other date as the Secretary of Housing and Urban Development shall specify as a condition of designation, or

"(D) the date upon which the Secretary of Housing and Urban Development revokes such designation.

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the State or a local government in which the area is located is not complying substantially with the agreed course of action for the area.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may designate a nominated area as an enterprise zone only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of the local government;

"(B) the boundary of the area is continuous; and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of not less than—

"(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(3)(C)(ii)) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

"(II) 1,000 in any other case; or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State or local governments in which the nominated area is located certifies, and the Secretary of Housing and Urban Development accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment and general distress;

"(B) the area is located wholly within the jurisdiction of a local government that is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this Act;

"(C) the unemployment rate for the area, as determined by the appropriate available data, was not less than 1.5 times the national unemployment rate for the period;

"(D) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was not less than 20 percent for the period to which such data relate; and

"(E) the area meets at least one of the following criteria:

"(i) Not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

"(ii) The population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

"(4) ELIGIBILITY REQUIREMENTS FOR RURAL AREAS.—For purposes of paragraph (1), a nominated area that is a rural area described in subsection (a)(3)(C)(ii) meets the requirements of paragraph (3) if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that the area meets—

"(A) the criteria set forth in subparagraphs (A) and (B) of paragraph (3); and

"(B) not less than one of the criteria set forth in the other subparagraphs of paragraph (3).

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the State and the local government or governments of the jurisdictions in which the nominated area is located agree in writing that, during any period during which the nominated area is an enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may include, but is not limited to—

"(A) the reduction or elimination of tax rates or fees applying within the enterprise zone,

"(B) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

"(C) an increase in the level or efficiency of local services within the enterprise zone, for example, crime prevention, and drug enforcement prevention and treatment,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area.

"(E) mechanisms to increase equity ownership by residents and employees within the enterprise zone.

"(F) donation (or sale below market value) of land and buildings to benefit low and moderate income people.

"(G) linkages to—

"(i) job training,

"(ii) transportation,

"(iii) education,

"(iv) day care,

"(v) health care, and

"(vi) other social service support.

"(H) provision of supporting public facilities, and infrastructure improvements.

"(I) encouragement of local entrepreneurship; and

"(J) other factors determined essential to support enterprise zone activities and encourage livability or quality of life.

"(3) LATER MODIFICATION OF A COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures to permit or require a course of action to be updated or modified during the time that a designation is in effect.

"(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give preference to the nominated areas—

"(1) with respect to which the strongest and highest quality contributions have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief,

"(2) with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action will actually be carried out during the period of the enterprise zone designation,

"(3) with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(4) which best exhibit such other factors determined by the Secretary of Housing and Urban Development, including relative distress, as are consistent with the intent of the enterprise zone program and have the greatest likelihood of success.

"(f) GEOGRAPHIC DISTRIBUTION.—In making designations, the Secretary of Housing and Urban Development will take into consideration a reasonable geographic distribution of enterprise zones.

"(g) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia."

"(h) CROSS REFERENCES FOR—

(1) definitions, see section 1391,

"(2) treatment of employees in enterprise zones, see section 1392, and

"(3) treatment of investments in enterprise zones, see sections 1393 and 1394."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Designation of enterprise zones."

SEC. 102. REPORTING REQUIREMENTS

Not later than the close of the second calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each second calendar year thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. 103. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7880 of the Internal Revenue Code of 1986 (as added by this Act) shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(b) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 7880 of such Code shall not constitute a Federal action for purposes of applying the procedural requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

TITLE II—FEDERAL INCOME TAX INCENTIVES

SEC. 201. DEFINITIONS AND REGULATIONS; EMPLOYEE CREDIT; CAPITAL GAIN EXCLUSION; STOCK EXPENSING.

(a) GENERAL RULE.—Chapter 1 (relating to normal tax and surtax rules) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Enterprise Zones

"Sec. 1391. Definitions and regulatory authority.

"Sec. 1392. Credit for enterprise zone employees.

"Sec. 1393. Enterprise zone capital gain.

"Sec. 1394. Enterprise zone stock.

"SEC. 1391. DEFINITIONS AND REGULATORY AUTHORITY.

"(a) ENTERPRISE ZONE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone' means any area which the Secretary of Housing and Urban Development designates pursuant to section 7880(a) as a Federal enterprise zone for purposes of this title.

"(2) TERMINATION OF ENTERPRISE ZONE.—An area will cease to constitute an enterprise zone once its designation as such terminates or is revoked under section 7880(b).

"(b) ENTERPRISE ZONE BUSINESS.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone business' means an activity constituting the active conduct of a trade or business within an enterprise zone, and with respect to which—

"(A) at least 80 percent of the gross income in each calendar year is attributable to the active conduct of a trade or business within an enterprise zone,

"(B) less than 10 percent of the property (as measured by unadjusted basis) constitutes stocks, securities, or property held for use by customers,

"(C) less than 10 percent of the property constitutes collectibles (as defined in section 408(m)(2)), unless such collectibles constitute property held primarily for sale to customers in the ordinary course of the active trade or business,

"(D) substantially all of the property (whether owned or leased) is located within an enterprise zone, and

"(E) substantially all of the employees work within an enterprise zone.

"(2) RELATED ACTIVITIES TAKEN INTO ACCOUNT.—Except as otherwise provided in regulations, all activities conducted by a taxpayer and persons related to the taxpayer shall be treated as one activity for purposes of paragraph (1).

"(3) SPECIAL RULES.—

"(A) RENTAL REAL PROPERTY.—For purposes of paragraph (1), real property located within an enterprise zone and held for use by customers other than related persons shall be treated as the active conduct of a trade or business for purposes of paragraph (1)(A) and as not subject to paragraph (1)(B).

"(B) TERMINATION OF ENTERPRISE ZONE BUSINESS.—An activity shall cease to be an enterprise zone business if—

"(i) the designation of the enterprise zone in which the activity is conducted terminates or is revoked pursuant to section 7880(b);

"(ii) more than 50 percent (by value) of the activity's property or services are obtained from related persons other than enterprise zone businesses; or

"(iii) more than 50 percent of the activity's gross income is attributable to property or services provided to related persons other than enterprise zone businesses.

"(c) ENTERPRISE ZONE PROPERTY.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone property' means—

"(A) any tangible personal property located in an enterprise zone and used by the taxpayer in an enterprise zone business, and

"(B) any real property located in an enterprise zone and used by the taxpayer in an enterprise zone business.

In no event shall any financial property or intangible interest in property be treated as constituting enterprise zone property, whether or not such property is used in the active conduct of an enterprise zone business.

"(2) TERMINATION OF ENTERPRISE ZONE.—The treatment of property as enterprise zone property under subparagraph (A) shall not terminate upon the termination or revocation of the designation of the enterprise zone in which the property is located, but instead shall terminate immediately after the first sale or exchange of such property occurring after the expiration or revocation.

"(d) RELATED PERSONS.—For purposes of this subchapter, a person shall be treated as related to another person if—

"(1) the relationship of such persons is described in section 267(b) or 707(b)(1), or

"(2) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '33 percent' shall be substituted for '50 percent'.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of the Enterprise Zone Jobs-Creation Act of 1991, including—

"(1) providing that Federal tax relief is unavailable to an activity that does not stimulate employment in, or revitalization of, enterprise zones,

"(2) providing for appropriate coordination with other Federal programs that, in combination, might enable activity within enterprise zones to be more than 100 percent subsidized by the Federal government, and

"(3) preventing the avoidance of the rules in this subchapter.

"SEC. 1392. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) GENERAL RULE.—In the case of a taxpayer who is an enterprise zone employee, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 5 percent of so much of the qualified wages of the taxpayer for the taxable year as does not exceed \$10,500.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ENTERPRISE ZONE EMPLOYEE.—The term 'enterprise zone employee' means an individual—

"(A) performing services during the taxable year that are directly related to the conduct of an enterprise zone business,

"(B) substantially all of the services described in paragraph (1)(A) are performed within an enterprise zone, and

"(C) the employer for whom the services described in paragraph (1)(A) are performed is not the Federal government, any State government or subdivision thereof, or any local government.

"(2) WAGES.—The term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such subsection).

"(3) QUALIFIED WAGES.—The term 'qualified wages' means all wages of the taxpayer, to the extent attributable to services described in paragraph (1).

"(c) LIMITATIONS.—

"(1) PHASE-OUT OF CREDIT.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) \$525, over

"(B) 10.5 percent of so much of the taxpayer's total wages (whether or not constituting qualified wages) as exceeds \$20,000.

"(2) PARTIAL TAXABLE YEAR.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in subsection (c)(1) shall be adjusted on a pro rata basis (based upon the number of days).

"(d) REDUCTION OF CREDIT TO TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit allowed under this section for the taxable year shall be reduced by the amount (if any) of tax imposed by section 55 (relating to the alternative minimum tax) with respect to such taxpayer for such year.

"(e) CREDIT TREATED AS SUBPART C CREDIT.—For purposes of this title, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C of part IV of subchapter A of this chapter.

"SEC. 1393. ENTERPRISE ZONE CAPITAL GAIN.

"(a) GENERAL RULE.—Gross income does not include the amount of any gain constituting enterprise zone capital gain.

"(b) DEFINITION.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone capital gain' means gain—

"(A) treated as long-term capital gain,

"(B) allocable in accordance with the rules under subsection (b)(5) of section 338 to the sale or exchange of enterprise zone property, and

"(C) property attributable to periods of use in an enterprise zone business.

"(2) LIMITATIONS.—Enterprise zone capital gain does not include any gain attributable to—

"(A) the sale or exchange of property not constituting enterprise zone property with respect to the taxpayer throughout the period of twenty-four full calendar months immediately preceding the sale or exchange,

"(B) any collectibles (as defined in section 408(m)), or

"(C) sales or exchanges to persons controlled by the same interests.

"(c) BASIS.—Amounts excluded from gross income pursuant to subsection (a) shall not be applied in reduction to the basis of any property held by the taxpayer.

"SEC. 1394. ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—At the election of any individual, the aggregate amount paid by such taxpayer during the taxable year for the purchase of enterprise zone stock on the original issue of such stock by a qualified issuer shall be allowed as a deduction.

"(b) LIMITATIONS.—

"(1) CEILING.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed \$50,000 for any taxable year, nor \$250,000 during the taxpayer's lifetime.

"(A) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under this paragraph (1)—

"(i) the amount of such excess shall be treated as an amount paid in the next taxable year, and

"(ii) the deduction allowed for any taxable year shall be allocated among the enterprise zone stock purchased by such person in accordance with the purchase price per share.

"(2) RELATED PERSON.—

"(A) IN GENERAL.—The taxpayer and all individuals related to the taxpayer shall be treated as one person for purposes of the limitations described in subsection (b)(1).

"(B) EXCESS AMOUNTS.—The limitations described in subsection (b)(1) shall be allocated among the taxpayer and related persons in accordance with their respective purchases of enterprise zone stock.

"(3) PARTIAL TAXABLE YEAR.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in subsection (b)(1) shall be adjusted on a pro rata basis (based upon the number of days).

"(c) DISPOSITIONS OF STOCK.—

"(1) GAIN TREATED AS ORDINARY INCOME.—Except as otherwise provided in regulations, if a taxpayer disposes of any enterprise zone stock with respect to which a deduction was

allowed under subsection (a), the amount realized upon such disposition shall be treated as ordinary income and recognized notwithstanding any other provision of this subtitle.

"(2) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If a taxpayer disposes of any enterprise zone stock before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disposed of.

"(d) DISQUALIFICATION.—

"(1) ISSUER OR STOCK CEASES TO QUALIFY.—If a taxpayer elects the deduction under subsection (a) with respect to enterprise zone stock, and either—

"(A) the issuer with respect to which the election was made ceases to be a qualified issuer, or

"(B) the proceeds from the issuance of the taxpayer's enterprise zone stock fail or otherwise cease to be invested by the issuer in enterprise zone property, then, notwithstanding any provision of this subtitle other than paragraph (2) to the contrary, the taxpayer shall recognize as ordinary income the amount of the deduction allowed under subsection (a) with respect to the issuer's enterprise zone stock.

"(2) SPECIAL RULES.—

"(A) LIQUIDATION.—Where enterprise zone property acquired with proceeds from the issuance of enterprise zone stock is sold or exchanged pursuant to a plan of complete liquidation, the treatment described in paragraph (1) shall be inapplicable.

"(B) TERMINATION OF ENTERPRISE ZONE.—The treatment of an activity as an enterprise zone business shall not cease for purposes of paragraph (1) solely by reason of the termination or revocation of the designation of the enterprise zone with respect to the activity.

"(C) PARTIAL DISQUALIFICATION.—Where some, but not all, of the property acquired by the issuer with the proceeds of enterprise zone stock ceases to constitute enterprise zone property, the treatment described in paragraph (1) shall be modified as follows—

"(i) the total amount recognized as ordinary income by all shareholders of the issuer shall be limited to an amount of deduction allowed up to the unadjusted basis of property ceasing to constitute enterprise zone property,

"(ii) the amount recognized shall be allocated among enterprise zone stock with respect to which the election in subsection (a) was made in the reverse order in which such stock was issued, and

"(iii) the amount recognized shall be apportioned among taxpayers having made the election in subsection (a) in the ratios in which the stock described in paragraph (2)(C)(ii) was purchased.

"(3) ADDITIONAL AMOUNT.—If income is recognized pursuant to paragraph (1) at any

time before the close of the 5th calendar year ending after the date the enterprise zone stock was purchased, the tax imposed by this chapter with respect to such income shall be increased by an amount equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(A) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of the disqualification event described in paragraph (1),

"(B) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disqualified.

"(e) DEFINITIONS.—For purposes of this section—

"(1) ENTERPRISE ZONE STOCK.—The term 'enterprise zone stock' means common stock issued by a qualified issuer, but only to the extent that the amount of proceeds of such issuance are used by such issuer no later than twelve months followed issuance to acquire and maintain an equal amount of newly acquired enterprise zone property.

"(2) QUALIFIED ISSUER.—

"(A) IN GENERAL.—The term 'qualified issuer' means any subchapter C corporation which—

"(i) does not have more than one class of stock,

"(ii) is engaged solely in the conduct of one or more enterprise zone businesses,

"(iii) does not own or lease more than \$5 million of total property (including money), as measured by the unadjusted basis of the property, and

"(iv) more than 20 percent of the total voting power and 20 percent of the total value of the stock of such corporation is owned by individuals, partnerships, estates or trusts.

"(B) LIMITATION ON TOTAL ISSUANCES.—A qualified issuer may issue no more than an aggregate of \$5 million of enterprise zone stock.

"(C) AGGREGATION.—For purposes of applying the limitations under paragraph (2), the issuer and all related persons shall be treated as one person.

"(3) AMOUNT PAID.—For purposes of subsection (a), the amount 'paid' by a taxpayer for any taxable year shall not include the issuance of evidences of indebtedness of the taxpayer (whether or not such indebtedness is guaranteed by another person), nor amounts paid by the taxpayer after the close of the taxable year.

"(f) ISSUANCES IN EXCHANGE FOR PROPERTY.—If enterprise zone stock is issued in exchange for property, then notwithstanding any provision of subchapter C of this chapter to the contrary—

"(1) the issuance shall be treated for purposes of this subtitle as the sale of the property at its then fair market value to the corporation, and a contribution to the corporation of the proceeds immediately thereafter in exchange for the enterprise zone stock, and

"(2) the issuer's basis for the property shall be equal to the fair market value of such property at the time of issuance.

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a taxpayer elects the deduction under subsection (a), the taxpayer's basis (without regard to this subsection) for the enterprise zone stock with respect to such election shall be reduced by the deduction allowed or allowable.

"(h) LIMITATIONS ON ASSESSMENT AND COLLECTION.—If a taxpayer elects the deduction under subsection (a) for any taxable year, then—

"(1) the period for assessment and collection of any deficiency attributable to any part of the deduction shall not expire before one year following expiration of such period of the qualified issuer that includes the circumstances giving rise to the deficiency, and

"(2) such deficiency may be assessed before expiration of the period described in paragraph (1) notwithstanding any provisions of this subtitle to the contrary.

"(i) CROSS REFERENCE.—

For treatment of the deduction under subsection (a) for purposes of the alternative minimum tax, see section 56."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (23); by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and"; and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 1394(g), in the case of stock with respect to which a deduction was allowed or allowable under section 1394(a)."

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"SUBCHAPTER U. Enterprise zones."

SEC. 202. ALTERNATIVE MINIMUM TAX.

(a) CORPORATIONS.—Section 56(g)(4)(B) (relating to adjustments based on adjusted current earnings of corporations) is amended by adding the following new clause at the end thereof:

"(ii) EXCLUSION OF ENTERPRISE ZONE CAPITAL GAIN.—Clause (i) shall not apply in the case of any enterprise zone capital gain (as defined in section 1393(b)), and such gain shall not be included in income for purposes of computing alternative minimum taxable income."

(b) INDIVIDUALS.—Section 56(b) (relating to adjustments to the alternative minimum taxable income of individuals) is amended by adding the following new paragraph at the end thereof:

"(4) ENTERPRISE ZONE STOCK.—No deduction shall be allowed for the purchase of enterprise zone stock (as defined in section 1394(e))."

SEC. 203. ADJUSTED GROSS INCOME DEFINED.

Section 62(a) (relating to the definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) ENTERPRISE ZONE STOCK.—The deduction allowed by section 1394."

SEC. 204. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years ending after December 31, 1990.

TITLE III—REGULATORY FLEXIBILITY

SEC. 301. DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONE FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction defined in paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified enterprise zone business; any unit of government that nominated an

area which the Secretary of Housing and Urban Development designates as an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986) that has a rule pertaining to the carrying out of any project, activity, or undertaking within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 1392(b)(1) of such Code)."

SEC. 302. WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in enterprise zones

"(a) Upon the written request of any government which nominated an area that the Secretary of Housing and Urban Development has designated as an enterprise zone under section 7880 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives with respect to such zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within such zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If such a request is made to any agency other than the Department of Housing and Urban Development, the requesting government shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) violate a statutory requirement (including any requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental or occupational health or safety, or of environmental pollution.

"(e) If a request is disapproved, the agency shall inform all the requesting governments, and the Department of Housing and Urban Development, in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section, the time such waiver or modification takes effect and its duration, and the scope of applicability of such waiver or modification.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary. Such determinations shall be published with the proposal to amend such rule.

"(i) No waiver or modification of a rule under this section shall remain in effect with respect to an enterprise zone after the enterprise zone designation has expired or has been revoked.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title."

(b) The analysis for chapter 6 of title 5, United States Code, is amended by redesignating the items relating to sections 611 and 612 as items relating to sections 612 and 613, respectively, and by inserting after the item relating to section 610 the following new item:

"611. Waiver or modification of agency rules in enterprise zones."

(c) Section 601(2) of such title 5 is amended by inserting "(except for purposes of section 611" immediately before "means".

(d) Section 613 of such title 5, as redesignated by subsection (a), is amended—

(1) in subsection (a) by inserting "(except section 611)" immediately after "chapter"; and

(2) in subsection (b) by inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence.

SEC. 303. FEDERAL AGENCY SUPPORT OF ENTERPRISE ZONES.

In order to maximize all agencies' support of enterprise zones, the Secretary of Housing and Urban Development is authorized to convene regional and local coordinating councils of any appropriate agencies to assist State and local governments to achieve the objectives agreed to in the course of action

under section 7880 of the Internal Revenue Code of 1986.

TITLE IV—ESTABLISHMENT OF FOREIGN-TRADE ZONES IN ENTERPRISE ZONES

SEC. 401. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprise zone designated pursuant to section 7880 of the Internal Revenue Code of 1986.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone so designated.

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones so designated, the Foreign-Trade Zone Board and the Secretary of the Treasury shall approve the applications, to the maximum extent practicable, consistent with their respective statutory responsibilities.

TITLE V—REPEAL OF TITLE VII OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

SEC. 501. REPEAL.

Title VII of the Housing and Community Development Act of 1987 is hereby repealed.

SECTION-BY-SECTION EXPLANATION AND JUSTIFICATION FOR THE ENTERPRISE ZONE JOBS-CREATION ACT OF 1991

PURPOSE

To provide for the establishment of enterprise zones in order to stimulate entrepreneurship, create jobs, and promote the revitalization of economically distressed areas.

TITLE I—DESIGNATION OF ENTERPRISE ZONES

Section 101. Designation of Zones

Authorizes the Secretary of Housing and Urban Development to make zone designations after consultation with the Secretaries of Agriculture, Commerce, Labor, Treasury, and Interior (for zones on Indian reservations); the Director of OMB; and the SBA Administrator.

Requires the publication of regulations prescribing the procedures for nominating an area for zone designation and the method by which the Secretary will apply the preference factors described below.

Specifies that the Secretary can make designations only during a prescribed 48-month period.

Authorizes designation of 50 zones on a phased basis over a four-year period and mandates that one-third of the zones must be in rural areas.

Provides, that for nominated zones on Indian Reservations, the reservation governing body will be considered to be both the local and state government with respect to such areas.

Establishes eligibility criteria as a threshold for consideration. The nominated area must have:

- A continuous boundary;
- An unemployment rate of at least 1.5 times the national unemployment rate;
- A poverty rate of at least 20% for each populous census tract, and either—
 - very low incomes in the area; or
 - a 20% population loss between 1980 and 1990.

(A rural zone needs to meet only one of the distress criteria.)

In addition, the jurisdiction must have distress criteria which would have qualified for the Urban Development Action Grant program.

Requires that a local and state government must jointly request zone designation. The designation request must include a "Course of Action" which is a strategy to show actions taken and planned to encourage local entrepreneurs, reduce governmental burdens in the zone and provide opportunity for local residents and groups.

Provides that the Secretary shall give preference to the nominated areas which have:

Promised the strongest and highest quality contributions as part of the Course of Action;

Provided the most effective and enforceable guarantees for carrying out the proposals;

Made the most substantial commitments of additional resources and contributions by private entities; and

Which best exhibit such other factors determined by the Secretary to be consistent with the enterprise zone concept and have the greatest likelihood of success.

Provides that, in making designations, the Secretary will take into consideration a reasonable geographic distribution of Enterprise Zones.

Section 102. Reporting Requirements

Requires the Secretary to report to Congress on the effects of the Enterprise Zone designations at the end of the second calendar year following the first designations and annually thereafter.

Section 103. Interaction With Other Federal Programs

Specifies that Enterprise Zone designation under this section does not trigger the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the National Environmental Policy Act of 1969 or other provisions of Federal law relating to the protection of the environment.

TITLE II—FEDERAL INCOME TAX INCENTIVES

Section 201. Definitions and Regulations; Employee Credit; Capital Gain Exclusion; Stock Expensing

Amends the Tax Code by amending Chapter 1 of Subtitle A by adding Subchapter U—Enterprise Zones, which includes:

Sec. 1391. Definitions and Regulatory Authority;

Sec. 1392. Credit for Enterprise Zone employees;

Sec. 1393. Enterprise zone capital gain; and

Sec. 1394. Enterprise zone stock.

Sec. 1391.

Provides definitions of Enterprise Zone Business and Enterprise Zone Property and provides the necessary regulatory authority

to the Secretary of the Treasury to carry out the tax related provisions of the Act.

Sec. 1392.

Provides for a refundable tax credit for low-income employees of up to \$525, or 5 percent of the first \$10,500 in wages earned by an employee in an enterprise zone. The credit is phased out at the rate of 10.5 percent for wages exceeding \$20,000.

Sec. 1393.

Provides that a zero capital gains tax rate will apply to capital gains realized on the sale of tangible enterprise zone assets which are held for two years or more.

Sec. 1394.

Provides for "expensing" by individuals of purchases of Enterprise Zone Stock, limited to a yearly deduction of \$50,000 per individual, with a \$250,000 lifetime cap. The issuer must be a subchapter C corporation meeting certain tests including issuing no more than \$5 million of Enterprise Zone Stock.

Section 202. Alternative Minimum Tax

Amends the Alternative Minimum Tax (AMT) provision for corporations by excluding enterprise zone capital gain from income for purposes of computing the AMT, and for individuals by disallowing a deduction for enterprise zone capital gain in determining alternative minimum taxable income.

Section 203. Adjusted Gross Income Defined

Amends the provisions defining Adjusted Gross Income (AGI) to include "expensing" of enterprise zone stock as a deduction in computing AGI.

TITLE III—REGULATORY FLEXIBILITY

Section 301. Definition of Small Entities in Enterprise Zones for Purpose of Regulatory Functions

Expands the application of the term "small entity" in Section 601 of title 5, United States Code, to include any qualified enterprise zone business; any unit of local government which nominates an area designated as an enterprise zone that has a rule pertaining to the carrying out of any project, activity, or undertaking within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone.

Section 302. Waiver or Modification of Agency Rules in Enterprise Zones

Amends Chapter 6 of title 5, United States Code by adding a new section 610 which authorizes Federal agencies to waive or modify applications of their rules in enterprise zones. Outlines the procedures for requesting waivers, and the limitations which apply.

Section 303. Federal Agency Support of Enterprise Zones

Authorizes the Secretary of Housing and Urban Development to convene regional and

local coordinating councils of Federal agencies to assist State and local governments in achieving the objectives specified in the Course of Action.

TITLE IV—ESTABLISHMENT OF FOREIGN-TRADE ZONES IN ENTERPRISE ZONES

Section 401. Foreign-Trade Zone Preferences

Directs the Foreign Trade Zone Board to consider on a priority basis and expedite the processing of any application involving the establishment of a foreign trade zone within an enterprise zone.

Directs the Foreign Trade Zone Board to consider on a priority basis and expedite the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign trade zone within an enterprise zone.

Specifies that in evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones, the Foreign Trade Zone Board and the Secretary of the Treasury shall give special consideration to the requests.

TITLE V—REPEAL OF TITLE VII OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

Section 501. Repeal

Repeals Title VII (Enterprise Zone Development) of the Housing and Community Development Act of 1987.

ENTERPRISE ZONES COMPARISON OF ROSTENKOWSKI AND ADMINISTRATION PROPOSALS

	Rostenkowski	Administration
Scope of program:		
Number of zones HUD may designate.	Up to 25 over 4 yr	Up to 50 over 4 yr.
Effective period of designations.	Up to 25 yr	Up to 25 yr.
Location of areas eligible for zone designation.	Eligibility criteria will tend to exclude rural areas	One-third of zones must be in rural areas.
Revenue	Volume caps on each tax benefit. Allocations of dollar amounts of tax benefits are made by state/local officials. JCT estimate of cost is \$1.9,000,000,000 over 5 yr.	Open-ended, but tax benefits sufficiently limited that cost estimates can be made. Treasury estimate of cost is \$1.9,000,000,000 over 5 yr.
Benefits available in zones:		
Employer/employee credit ...	Small EZ employers get credit equal to 10 percent of wages paid to, and health ins. paid for, employees who are EZ residents and earn less than \$30,000. Credit reduces deductible wages. Allocation of credit to employer for volume cap purposes is on annual basis (though commitments of future allocations are possible).	EZ employees earning less than \$20,000 get credit of 5 percent of first \$10,500 of wages. Credit is refundable and is phased out when employee earns between \$20,000 and \$25,000. Employee need not reside in EZ to get credit, but must perform services in EZ.
Tax-exempt bonds	Qualified small-issue bonds can be issued for EZ businesses after 1990 (sunset date for this bond provision is now December 31, 1990). One-time allocation of benefit for volume cap purposes. "Special preference" in allocating tax-exempt bond volume cap must be given to facilities located in EZs.	No provision.
Rehab credit	10 percent rehab credit broadened; can be taken for any EZ building that is at least 30 yr old (full basis reduction). One-time allocation of credit to each building for volume cap purposes.	No provision.
Depreciation	Useful life of new nonresidential real property in EZs reduced to 28.5 yr from 31.5 yrs, depreciation consequently is accelerated. One-time allocation of tax benefit to each building for volume cap purposes.	No provision.
Capital gain	Deferral for up to 10 yr of long-term capital gain on sale of any asset to extent gain in reinvested in new EZ property; deferral ends if property not held 5 yr, interest charged on deferral period. One-time allocation of tax benefit for volume cap purposes.	Elimination of long-term gain on tangible property located in an EZ and used by an EZ business for 2 yr; applies only to gain accruing during use of property in EZ.

ENTERPRISE ZONES COMPARISON OF ROSTENKOWSKI AND ADMINISTRATION PROPOSALS—Continued

	Rostenkowski	Administration
Investment	Ordinary loss for worthless stock in or debt of EZ corporation, provided that the corporation's activity involved conducting an active business in the EZ. One-time allocation of tax benefit for volume cap purposes. Allocation must be made before the property (stock or debt) is acquired.	Indivs. may deduct up to \$50,000 per year, \$250,000 per person, cost of "EZ stock," that is stock in an EZ business that is a C corp. and meets specified requirements (for example, less than \$5,000,000 in assets, substantially all its activity in EZ). A corp. can't issue over \$5,000,000 of EZ stock and must * * * property. Stock basis is reduced to extent deduction is taken, and gain on sale of stock is ordinary income.
Low-income housing tax credit (assuming extension).	Only EZs can be "difficult development" areas in which buildings can qualify for a 91 percent present value credit. Child care facilities may be included in qualified basis for credit purposes. No EZ volume cap reduction as credit has own cap. "Special preference" in allocating housing credit volume cap must be given to housing projects located in EZs.	No provision.
Child care	Cost of employer-provided child care facilities in EZ buildings can be amortized over 60-mo period. One-time allocation of tax benefit for volume cap purposes. Allocation must be made before property placed in service.	No provision.

• Mr. KASTEN. Mr. President, I am pleased to join today with my colleagues Senators DANFORTH, LIEBERMAN, GRASSLEY, MCCAIN, JOHNSTON, BOND, GARN, MACK, COCHRAN, SMITH, LOTT, CRAIG, MCCONNELL, GORTON, SEYMOUR, and D'AMATO, in introducing the Enterprise Zone Jobs-Creation Act of 1991. It is my hope that this bill will lead to the swift enactment of enterprise zone legislation. This bill has the support of President Bush and Secretary Kemp as well as Senators from both political parties, and companion legislation has been introduced in the House by Congressman RANGEL. I believe we have finally brought together a political coalition that will make enterprise zones a reality this year.

I have been a leading proponent of enterprise zones for many years now. In fact, my State of Wisconsin has implemented one of the most successful enterprise zone programs in the country. Unfortunately, the Wisconsin program and many other programs are limited in their effectiveness by the lack of Federal enterprise zone tax incentives. The Danforth-Lieberman-Kasten proposal would provide effective Federal incentives to complement those already in existence in many States, it would also encourage those States that have not enacted enterprise zone programs to do so.

This bill, if enacted, will create jobs and encourage entrepreneurship in some of this country's most distressed urban and rural communities. The legislation will convince businesses to start and grow in economically disadvantaged neighborhoods by providing incentives to invest in enterprise zone businesses and to hire and train unemployed and economically disadvantaged individuals.

Specifically, our bill calls for the designation of 50 Federal enterprise zones, one-third to be designated in rural

areas and Indian reservations, by the Secretary of the Department of Housing and Urban Development.

The specific tax incentives include expensive by individuals of purchases of enterprise zone stock in small companies under \$5 million in assets, elimination of capital gains for the sale of tangible enterprise zone property which has been held for at least 2 years, and a 5-percent refundable tax credit for the first \$10,500 of wages, up to \$525 per worker given to qualified enterprise zone employees.

Enterprise zones are an important component of the administration's economic empowerment agenda. Only by creating economic opportunity in the inner city can we effectively break the cycle of poverty. The poor want real jobs, not more Government make work programs.

It is time to give enterprise zones a chance. They offer the hope of new jobs and new opportunities. It is time to give some tax breaks to those who need them most—small businesses and disadvantaged workers in America's inner cities and rural areas. •

• Mr. MCCAIN. Mr. President, one of my highest priorities since I have been in Congress has been to encourage economic growth. My visits to many Indian reservations have made me all too well aware of the unacceptable living conditions that result from the lack of economic growth and opportunity. That is why I have introduced S. 383, the Indian Economic Development Act, to address the unique causes of poverty in Indian country.

Obviously, the need for economic opportunity goes beyond the reservation. I have also visited many urban and rural areas across our country that are mired in poverty. These areas need our attention and help.

That is why I am an original cosponsor of Secretary Kemp's antipoverty initiative, the Enterprise Zone Jobs-

Creation Act of 1991. This bill embodies an incentive-oriented, free-market approach to reduce poverty in the most economically depressed areas of the United States.

I feel that the free-market approach will better serve the Nation's poor than Federal central planning or subsidies. Federal central planning and subsidies do not promote economic growth. They do not provide the means for long-term economic and social improvement.

The economically depressed areas of our Nation need the greatest anti-poverty measure known—capitalism. The incentives provided by this package will encourage and reward the entrepreneurial behavior needed for economic growth.

Enterprise zones will attract venture capital to the most economically depressed areas for small business start-ups and expansion of existing businesses. Reduced effective tax rates will provide a powerful incentive to work. This will help the poor leave welfare for self-sufficiency.

Attracting and promoting business opportunities are the keys to economic growth and prosperity. Enterprise zones will provide the poorest communities with the economic opportunity for a prosperous future.

Given the opportunity, I have no doubt that the poorest Americans can be successful as entrepreneurs, productive employees, and tax-paying contributors to their society. We need to give the poor the opportunity to change their lives. I feel this legislation will provide the incentives needed for economic growth and opportunity.

This legislation will provide opportunity to 50 competitively designated enterprise zones through a package of new tax and regulatory incentives. Furthermore, this legislation will require local, State, and the Federal governments to work together to craft unique incentive packages.

For example, this legislation requires local and State governments to jointly request zone designation. This joint request must include a course of action. The course of action will outline a local-Federal strategy which encourages local residents and organizations to be the sources of economic growth.

Thus, Mr. President, I feel the Enterprise Zone Jobs-Creation Act of 1991 deserves our support. The combination of tax incentives, regulatory flexibility, and local-Federal cooperation can help the poorest Americans be successful and prosperous citizens. All they need is opportunity. This legislation will provide the opportunity that will help change the lives of thousands of poor Americans.●

● Mr. LIEBERMAN. Mr. President, the history of Federal urban policy and declining urban economies is relatively brief dating only from the early 1960's. In 1961, John F. Kennedy said:

Economic growth has come to resemble the Washington weather—everyone talks about it, no one says precisely what to do about it, and our only satisfaction is that it can't get any worse.

President Kennedy was correct about the first two parts of his statement—everyone does talk about it, and no one knows precisely what to do about it, but, Mr. President, the plight of many of this Nation's inner cities is indeed getting much worse. Whether it was the Model Cities Program in the 1960's or revenue sharing in the 1970's, urban development has been a challenge facing the administration and the Congress for the last 30 years.

Today I am pleased to rise along with my colleagues, Senators DANFORTH, KASTEN, and JOHNSTON, to introduce the Enterprise Zone Jobs-Creation Act of 1991. This legislation puts forth a program for economic and urban growth which, I believe, begins to facilitate the redevelopment of some of America's most distressed urban and rural communities.

In short, our bill will help convince businesses to build and grow in poor neighborhoods. It will create jobs and stimulate entrepreneurship. And, it will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals.

An enterprise zone is an economically depressed urban or rural area that is designated to receive special treatment by the local, State, and Federal Government in order to attract business investment through a series of incentives. These incentives include a combination of tax relief and regulatory relief.

The idea for using enterprise zones as a means for urban development is not a new one, but it is one whose adoption is long overdue. Two Englishmen of diverse political philosophies, Peter Hall and Sir Geoffrey Howe, first began working on this idea in the 1970's. It

came to fruition in 1980, when an enterprise zone program was enacted by former Prime Minister Margaret Thatcher.

The first national enterprise zone legislation in this country was introduced by two former Members of Congress, also of diverse background, Representative Jack Kemp, a Republican from Buffalo, and Representative Bob Garcia, a Democrat from the South Bronx. What brought these two men together was a desire to find a long term solution to poverty while stimulating economic development across our Nation.

Ultimately, in 1987, enterprise zone legislation was passed into law as part of an omnibus housing bill. In essence, this bill directed the Secretary of Housing and Urban Development to designate 100 enterprise zones across the country, but it did not provide for any corresponding Federal tax benefits. That is precisely what the bill we are introducing would do—put into place the tax and regulatory incentives which are pivotal to the success of enterprise zones and the redevelopment of urban and rural America.

Mr. President, the bill we are introducing incorporates the best ideas from many proposals. It takes into account our present fiscal ability and is strongly supported by President Bush and Secretary Kemp. Funding for this proposal was included in the President's budget, and companion legislation, sponsored by RANGEL, is presently moving in the House.

Our bill attempts to bring benefits to impoverished areas with a minimal loss of revenue to the Treasury. But, it is important to look beyond statistics and consider the positive social impact that the enterprise zone program can have on a community by giving its residents jobs and a new sense of hope about the future.

The enterprise zone program, in its very essence, assumes that it is better for society to direct investment and employment to areas that have had a history of low levels of economic activity rather than to direct investment and employment only to areas that have experienced healthy economic growth.

Furthermore, this legislation recognizes that the economic problems affecting many of our cities and rural regions cannot be solved by massive Federal handouts. It is clear that we must form a partnership between government and business to develop a strategy that will attack chronic poverty over the long term. Enterprise zones are not just a safety net for the poor and disadvantaged. They are the ladders upon which people and communities can climb above poverty and welfare.

Currently, 37 States have begun to do precisely this by establishing their local versions of enterprise zones. I am

proud to say that Connecticut led the Nation in establishing zones in 1982, offering a wide range of State and local incentives, as well as administrative support, to help develop distressed urban areas.

According to statistics from the Connecticut Department of Economic Development, Connecticut's 12 zones have attracted nearly \$400 million in new investment, and created or retained more than 13,000 jobs, without the benefit of accompanying Federal incentives. By providing such Federal incentives, we can expect to see ever greater investment and job creation in these regions.

Specially, our bill calls for the designation of 50 Federal enterprise zones by the Secretary of the Department of Housing and Urban Development. Tax incentives allow:

Zone businesses to take advantage of a zero capital gains rate for the sale of any enterprise zone tangible property that has been held for at least 2 years;

Those who invest in zone businesses to deduct up to \$50,000 for any taxable year, a \$250,000 maximum, on the purchase of qualified enterprise zone common stock; and

A 5-percent refundable tax credit to qualified enterprise zone employees for the first \$10,500 in wages, up to \$525 per worker.

Mr. President, I am convinced that, if adopted, this program will bring hope to areas with little hope; offer jobs to those stricken by incessant unemployment; and promote economic growth in areas that have for too long experienced only economic decline.

Winston Churchill once said that "some see private enterprise as a predatory target to be shot, others as a cow to be milked, but few are those who see it as a sturdy horse pulling the wagon." The most appealing feature of enterprise zones is their attempt to involve and utilize private enterprise in doing something substantial on a national scale about chronic poverty. Poverty that not only encompasses whole sections of every one of our inner cities but also, in too many areas, spans generations. It is a cloud over our Nation's future. The unemployed and the poverty stricken, whether they are in the South Bronx, Bridgeport, East St. Louis, New Orleans, Minneapolis, or Liberty City are in need of our help. I believe enterprise zones can give them help in a long-term, meaningful way.●

Mr. MACK. Mr. President, as an original cosponsor of the Enterprise Zone Jobs-Creation Act of 1991, I would like to express my strong support for its introduction today. This legislation goes right to the heart of the best way to beat poverty.

One of the primary objectives of any Federal social program ought to focus on the creation of incentives for economic freedom for its recipients. This

concept is the basis of the entire enterprise zone legislation.

The tax incentives included in this new legislation will give poor communities the opportunity to see real economic growth. The elimination of capital gains taxes for tangible property will mean businesses will blossom in the zones. This means jobs. And the refundable tax credit for workers means more purchasing power.

We have witnessed for too long poor people segregated in pockets of poverty that offer no opportunity for escape. The following New York Times editorial highlights the frustration of the poor who are herded into the same bullet-pocked projects.

As the editorial notes, there are many programs available that assist the poor. But we need to go beyond this. Most important, the editorial states, "society knows how to capitalize on people's determination, given half an opportunity, to work, scratch, and squeeze their way into the mainstream." I think the best way for Congress to get started in this direction is by passing the administration's enterprise zone legislation.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AFTER THE GHETTO

The ghetto, many Americans have come to believe, is forever. Frightened by crime and frustrated by seemingly intractable poverty, they grope for answers and settle for racial stereotypes: To give "them" welfare is to pour money down a rat hole . . . "They" are crime-prone and lazy . . . "They" know only childish instant gratification like sex and drugs . . .

These rationales proceed from profound ignorance, presuming that poor blacks somehow want the danger and squalor of central city enclaves. Blacks want to escape the ghetto. Indeed, thousands are succeeding.

The black movement outward noted by William Julius Wilson during the 70's continued in the 80's. Studies of 12 major metropolitan areas by Kathryn Nelson, an economist at the Department of Housing and Urban Development, show that better-off black families have been streaming out of the poorest central city areas.

The outmovement leaves behind an ever more concentrated distillation of misery. Even so, the lesson is powerfully positive: the ghetto is not a hopeless, unchanging fact of urban life. If comfortable citizens can only come to see how much even the poorest blacks want to escape, America can start making the ghetto disappear.

That's why two new books, coincidentally published within weeks of each other, possess such a potential punch. Taken together, they have the power to educate America.

One is "The Promised Land," by Nicholas Lemann, an ambitious analysis of the tidal changes brought by the northward movement of black sharecroppers from the cotton fields of the South. The other is "There Are No Children Here," by Alex Kotlowitz, an intimately illuminating look at one such family in Chicago.

As Mr. Lemann's book shows, the useful word is not "blacks" but black sharecroppers. They lived for most of a century in conditions not much different than slavery. Just as the agricultural underpinning of their lives disappeared in the rural South, so did the manufacturing jobs that drew them to the North. Cotton-picking poverty soon turned into welfare poverty, in harsh ghettos of public housing.

Where this historical analysis addresses the head, Alex Kotlowitz's story informs the heart. His meticulous portrait of two boys in a Chicago housing project shows how much heroism is required to survive, let alone escape.

No less anxiously than Israelis or Saudis under Scud missile attack, streetwise students in the projects slide off their chairs and huddle under their desks "when the powerful sounds of .357 Magnums and sawed-off shotguns" echo off the school walls.

On a rare trip downtown to see Christmas windows, Pharaoh, one of the brothers, is amazed, first off, by the sight of clean window glass. One day, Pharaoh, then 11, told a friend: "I worry about dying, dying at a young age, while you're little. . . . I want to get out of the 'jects.'"

Pharaoh struggles to succeed in school, in spelling bees, in Upward Bound. He may yet find a future and a way out. Meanwhile others, no less than he, want a future; want a way out.

Will power alone hoists few bootstraps, and more children are born daily into lives short of either will or hope. But that's no justification for Americans to recoil in resignation and despair. Society knows a hundred ways to break down the ghetto walls.

Program after program shows that young women can be taught to defer childbearing until they are old enough to manage. Government knows how to give their babies a fair chance and a Head Start. Law enforcement knows how to search out the .357 Magnums and contain the violence that terrifies neighborhoods.

Most important, society knows how to capitalize on people's determination, given half an opportunity, to work, scratch and squeeze their way into the mainstream.

The poor may always be with us, but it is not inevitable that so many poor black people, rooted in the same rural culture, must be herded into the same bullet-pocked projects. One day, all black Americans who want to will disperse themselves into the general population, just as many are doing now. One day the ghetto will be gone, and America's children, black and white, will look up and ask us: Why? What took so long?*

Mr. SEYMOUR. Mr. President, I am proud to rise as an original cosponsor of the Enterprise Zone-Jobs Creation Act of 1991 that is being introduced today by Senators DANFORTH and LIEBERMAN. I also want to recognize the President leadership and HUD Secretary Jack Kemp's hard work and commitment in putting this very fine legislative initiative together.

While this legislation is not a panacea to all of the problems facing our Nation's inner cities and distressed communities, it holds out the promise of providing real and workable solutions to poverty in America. This bill would direct tax incentives, Federal regulatory relief and good-old free market initiative to some of our Na-

tion's most economically depressed areas.

In this country, we tax work, we tax investment and savings, we tax creative initiative, and we tax employment. As a former businessman, I can assure you, Mr. President, that this is not a prescription for economic growth and the creation of new jobs. Rather, it stalls entrepreneurial spirit, new business growth, and free market incentives.

Our bill seeks to reverse this trend in the most depressed communities in America, and it is premised on a simple idea: empowerment. Let's give people a stake, a reason to believe in their own communities, and let them once again take charge of their futures.

We have already witnessed the tremendous successes associated with the administration's HOPE housing initiatives. This bill is an extension on that same theme because, for those caught in the cycle of poverty, it will boost opportunities to work, save and invest in their communities. In the end, we can put people back to work and that's one of the best remedies for urban blight, unemployment and breadlines.

Judging by the success of State enterprise zones, it is clear that a Federal enterprise zone program is needed. As of 1988, there have been more than 7,000 new jobs created and \$382 million in new investment in Los Angeles, Sacramento, San Diego, San Jose, and the other State enterprise zones in California. HUD reports that State enterprise zones nationwide have helped generate about \$9 billion in private investment and some 180,000 jobs.

Enterprise Zone-Jobs Creation Act of 1991 offers us a proven opportunity to move forward, to put tools in the hands of those willing to put their knowledge, energy and skills to work in the areas that need them most.

The time has come to bring new hope to our Nation's inner cities and blighted communities. This legislation offers that hope, and I urge my colleagues to give it their support.

By Mr. AKAKA (for himself and Mr. INOUE):

S. 1033. A bill to amend chapter 53 of title 10, United States Code, to provide for members of the National Guard, members of the Coast Guard, ROTC cadets, and veterans to perform honor guard functions at funerals of members of the Armed Forces of the United States and veterans, and for other purposes; to the Committee on Armed Services.

VETERANS' BURIAL BENEFIT ACT OF 1991

* Mr. AKAKA. Mr. President I rise on behalf of myself and the senior Senator from Hawaii, Senator DANIEL INOUE, to propose legislation today to honor our Nation's gallant and heroic veterans who have served the United States with distinction from the earliest American conflict through the Persian

Gulf war. It is only proper that we provide, as a final tribute to these brave men and women, an honor guard burial service.

More than 473,000 veterans passed away last year, and this number is expected to increase to nearly 600,000 annually over the next 10 years. In Hawaii, where an exceptionally high percentage of veterans reside, the rate of deceased veterans has been rising each year and is also expected to rise sharply in the next 10 years as the veteran population ages.

In response to distressing information provided by some of my constituents, I discovered that the Department of Defense has limited the availability of military honors for veterans' funerals on all Hawaiian islands other than Oahu, the most populous island. The Defense Department has confirmed that the decision to halt the military honor guard service to the neighbor Hawaiian islands was purely a result of budgetary constraints. I further understand that this policy has been extended to other jurisdictions, as well. Limited resources have prevented local installation commanders throughout the United States from providing full military honors. In many cases, the military will provide, at the minimum, a military representative at the funeral of a veteran.

I realize that funding limitations and personnel shortages, which will become more acute as we downsize our military forces, will make it even more difficult to provide full military honor guard service at veterans' funerals. Despite these constraints, it is our responsibility to explore every means possible to ensure that our deceased veterans receive military honor guards at their funerals. Our Nation's veterans deserve no less.

My legislation would require that the Secretary of Defense, in conjunction with the Secretary of Transportation, expands the list of those available to participate in an honor guard detail, which now includes active and reserve military and Coast Guard personnel, to qualified members from the National Guard, Reserve Officer Training Corps, and volunteers from veterans organizations. If enacted, funding for this expanded program would be drawn from moneys already provided under the fiscal year 1992 budget.

The Secretary of Defense would have the final authority to determine the requirements necessary for selecting and training personnel for honor guard service, and the circumstances under which an honor guard detail may be provided. With an expansion of the pool of authorized honor guard duty personnel, the Secretary would then be better able to maximize the government's ability to provide honor guard service for our veterans.

A key component of my bill would ensure that those selected to partici-

pate in the honor guard program would be of the highest moral character, and clearly able to perform this solemn duty. Only when such individuals have been properly trained, will they be allowed to participate in an honor guard service.

Mr. President, we have no more important duty to the men and women who have served our Nation with selfless courage and sacrifice than to provide them with a dignified burial. I urge my colleagues to support this bill which seeks to honor our veterans.■

By Mr. HOLLINGS (himself, Mr. GORE, Mr. BENTSEN, Mr. KERRY, Mr. BREAU, and Mr. ROBB):

S. 1034. A bill to enhance the position of the U.S. industry through the application of the results of the Federal research and development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AMERICAN TECHNOLOGY PREEMINENCE ACT OF 1991

Mr. HOLLINGS. Mr. President, today I am reintroducing the American Technology Preeminence Act, a bill to reauthorize the programs of the Technology Administration and the National Institute of Standards and Technology [NIST] within the Department of Commerce [DOC]. Last Congress' bill, which I also introduced, was not enacted prior to adjournment. The bill I am introducing today only differs slightly from last year's bill, and I am pleased that it is being cosponsored by Senators GORE, BENTSEN, KERRY, BREAU, and ROBB.

DRAMATIC EVIDENCE FROM THE PERSIAN GULF

I am introducing this bill today as an important step in promoting U.S. technology competitiveness. Mr. President, the recent events in the Persian Gulf offer dramatic evidence of why the United States must stay in the forefront of technology. The Patriot missile, the Tomahawk cruise missile, and other high-technology weapons proved their worth and saved countless American and allied deaths. America's technological edge, combined with the dedication of our troops and the skill of our commanders, clearly secured our military success in the gulf war.

The lessons of this war, however, go far beyond the need to maintain strong defense research and development. Defense research is important, and I support it. However, the war also points out the need to maintain a strong civilian technology base.

Today the civilian sector, not the military, leads the way in new technology. This is especially true in electronics, but also in manufacturing technology and advanced materials. Increasingly, the military looks to civilian companies for innovative technology, not the other way around. Already commercial companies have computer chips and other technology far more sophisticated than Patriot

components developed in the 1970's. The lesson here is simple and powerful: Without healthy U.S. civilian technology companies, the U.S. military has no assurance that it will lead the world in state-of-the-art defense equipment. A strong civilian technology base is vital not only for economic competitiveness and domestic prosperity but also for military leadership.

THE EROSION OF U.S. TECHNOLOGY

However, that civilian technology base is in jeopardy. Reports from the Department of Defense [DOD], DOC, and the Office of Science and Technology Policy [OSTP] all show that the United States lags behind Japan and Europe in developing many of the key technologies of the future. Winning Nobel Prizes in science is not enough. As I have said before, we win the Nobel Prizes, but the Japanese win the profits. They concentrate their national research and development [R&D] investment on engineering and new technologies, and they are winning the race to see which countries will lead in the key technologies and industries of the next century.

Some people say that no problem exists—that if the United States lags in advanced technology, it simply can buy from other countries, especially Japan. Some trade in high technology is inevitable and good, but we will make a historic mistake if we become too dependent on others. A June 6, 1990, report by the Industrial Base Committee of the Defense Science Board, entitled "Keeping Access to the Leading Edge," eloquently sums up the risks of dependence—both for DOD and American civilian industry.

Foreign firms are less sensitive to military needs, less responsive to any defense emergencies we may face, and harder to monitor in general. DOD cannot use the Defense Production Act to get deliveries on time regardless of competing pressures. DOD often cannot ask foreign firms to develop chips or materials without giving away sensitive system data.

Foreign firms may not want to or be allowed to be associated with DOD. For example, during the Vietnam War the United States had difficulty getting TV cameras for missile mounts. Japan's Diet had long debates over whether Kyocera should supply ceramic parts for our cruise missiles. . . .

More broadly, the departure of an industry overseas tends to weaken upstream and downstream industries. Producers of sophisticated computers and telecommunications have experienced delayed deliveries of high-speed chips from semiconductor divisions of their Japanese competitors. One domestic firm had to locate a printer factory in Japan in order to get etching equipment to make print heads. Automakers and chipmakers both report a one- to two-year lag in getting the best equipment from abroad. Depending on chips and equipment one day can lead to a dependence on supercomputers, avionics, and precision parts the next.

American business leaders are becoming increasingly concerned about both the country's lagging performance in technology and the low priority that

the Federal Government places on working with industry to develop new generic technologies. In this regard, a major statement from industry, the recent report from the eminent private groups, the Council on Competitiveness, entitled "Gaining New Ground: Technology Priorities for America's Future," makes several important points about the importance of technology, the need for new Federal priorities, and the value of NIST's programs.

The United States is already losing badly in many critical technologies. Unless the nation acts today to promote the development of generic industrial technology, its technological position will erode further, with disastrous consequences for American jobs, economic growth and national security. The federal government should view support of generic industrial technologies as a priority mission.***

The President should *** announce his intention to increase dramatically the percentage of federal R&D expenditures allocated to support for critical generic technologies and present a five-year implementation plan as part of his FY 1993 budget.***

The National Institute of Standards and Technology of the Department of Commerce is the main U.S. laboratory with a specific mission and initiatives that expand its role into new areas of technological research, such as the Advanced Technology Program and the Manufacturing Technology Transfer Centers, are major positive shifts in direction and focus. Nevertheless, with a budget of only \$170 million in FY 1990, its capacity to help industry is limited.

To repeat, a strong, leading civilian technology capability is absolutely essential to both our economic prosperity and our national defense. In addition, both U.S. industry and the Federal Government have responsibilities in this area. Industry must invest more in research, improve manufacturing, and boost the speed with which it commercializes new technologies. However, the Government also has important responsibilities, especially in working with industry in the critical area of precompetitive technologies, where long-term, fundamental technical problems must be solved before promising inventions can be turned into successful products. NIST can play a vital role in these areas.

PROGRESS MADE AND TASKS REMAINING

Mr. President, in the last 3 years we have made some significant progress in civilian technology policy. The Technology Competitiveness Act of 1988, which I introduced and which was included in Omnibus Trade and Competitiveness Act of 1988, created NIST as a full-fledged civilian technology agency. Since 1901, NIST's predecessor, the National Bureau of Standards, had been the one Federal research laboratory whose primary mission was to assist U.S. industry. The 1988 law upgraded the Bureau of Standards into the new NIST, with expanded authority and programs to work with U.S. industry to develop world-class technology. NIST's

budget is still small, but its capabilities and mission are in place. A second law in 1988, the NIST reauthorization bill for fiscal year 1989, which I also introduced, created a new DOC Technology Administration to house NIST and related activities.

In late 1988, awards were made to the first of NIST's new manufacturing technology centers, an important initiative to reach out to small and medium-sized manufacturers to help them modernize and stay competitive. Small awards were made later, under NIST's related State Technology Extension Program, to help the States improve their extension programs and better utilize federally developed technology.

In addition, for fiscal year 1990, I was able through the Commerce, Justice, State appropriations bill to secure \$10 million in appropriations to start NIST's new Advanced Technology Program [ATP], which provides seed money, on a matching basis, to industrial consortia and individual companies to help them develop new precompetitive technologies. Awards under this fiscal year 1990 appropriation were made last month. They will support industry projects in fields such as semiconductors, lasers, computers, circuit board manufacturing, machine tools, superconductors, and flat-panel displays. In addition, for fiscal year 1991, I secured \$35.9 million in appropriations for the ATP.

Some progress also has been made in the administration. Last September, the Director of OSTP released a statement formally endorsing a Government role in generic, precompetitive technology. Last month he released a useful list of the technologies that are most critical to the Nation. In addition, the President's fiscal year 1992 request contains some positive features for technology. I am pleased that the administration at least included some funding for the ATP, even if only at the fiscal year 1991 level, and a proposal to double the budget of NIST's internal laboratory program over 5 years. These are important steps.

However, Mr. President, much more needs to be done. The development of the new technologies that OSTP itself has identified as critical is a risky, long-term venture. Even given the importance of these technologies, industry, if left on its own, will tend to underinvest in their development, just as industry underinvests in basic scientific research. For that reason, Japan, Germany, and other countries devote substantial public resources to working with their companies on technology. Yet our Government has yet to devote significant resources to this increasingly vital area of research, as is shown most clearly in the administration's overall R&D budget request.

Funds to work with industry to develop basic technologies remain a very small percentage of the administra-

tion's \$76 billion R&D request for fiscal year 1992, a request which follows a longstanding pattern of underfunding. In 1988, for example, the West German Government spent 14.5 percent of its R&D budget directly to work with industry—the Germans have a special agency for this purpose, the Federal Ministry of Research and Technology. The equivalent U.S. number in 1988 was only 0.2 percent of the Federal R&D budget. That 0.2 percent was the NIST budget, and the administration's fiscal year 1993 budget again requests that only 0.2 percent of total R&D funds go to NIST and industrial technology. At the same time, the administration's fiscal year 1993 request also proposes major cuts in technology development work at DOD, especially for so-called dual use technologies, on the ground that areas such as high-definition displays are not sufficiently military to justify DOD funding.

Occasional spinoffs in technological advancements to industry from research in mission agencies are not enough for us to compete in the long run with economic powerhouses such as Germany and Japan. To compete, we must make industrial technology and competitiveness a national priority. Given that industry by itself will underinvest in these critical technologies, we will not be able to sustain America's economic strength if neither DOD nor civilian agencies work with industry to develop these generic technologies.

PROVISIONS OF THE BILL

Mr. President, the bill that I am introducing today takes the position that the United States needs a strong, industry-led technology policy. This legislation is an important step in making technology a national priority.

It provides fiscal year 1992 authorizations for the programs of the NIST and its parent agency, DOC's Technology Administration. Specifically, the bill: Reauthorizes the offices of the Under Secretary for Technology and the Assistant Secretary for Technology Policy; endorses the President's proposal to begin doubling the budget for NIST's internal laboratory research program; authorizes the expansion of NIST's technology extension programs, including raising the number of manufacturing technology centers to eight; and authorizes \$110 million in fiscal year 1992 funds for the ATP. That \$110 million figure, incidentally, is what NIST itself requested for the ATP but was not included in the President's budget, and reflects the amount needed to support a limited number of joint industry-NIST projects in each of the 12 critical technical areas identified in DOC's spring 1990 emerging technologies report. The fiscal year 1992 authorizations in the bill total \$375.5 million. In addition, the bill makes several technical changes in these NIST programs, particularly changes requested by DOC

and creates several commissions and requests several reports.

Mr. President, this bill will promote the creation of a viable, successful U.S. technology policy. Later this spring, I expect to be proposing further initiatives to build on these NIST programs and related Federal activities. We must continue our efforts to create industry-Government partnerships that will once again make the United States second to none in technology.

CONCLUSION

Mr. President, I also will continue my efforts to ensure that the Federal Government takes the other steps necessary to restore U.S. industrial competitiveness. Some officials in the current administration show little concern about whether the sum of their policies does or does not promote economic competitiveness. Even analyzing or discussing our current policies is taboo, for it invokes the dreaded phrase "industrial policy." Refusing even to discuss how Federal policies affect U.S. industry's position in the world is a curious and sad position for Government officials to take. Even if they dislike the subject, the plain fact is that the United States has a *de facto* industrial policy, and it is not working very well.

For example, the United States continues to lose market share in a wide range of industries. Trade laws in this country continue to go unenforced. The health of American manufacturing is not the priority it should be in world trade negotiations. There continues to be blatant cases of inadequate protection for American inventions overseas, particularly in Japan. We still need a serious proposal on how to make the cost, availability, and patience of American capital equivalent to the low-cost, very patient investment capital available to our competitors. I hope that we eventually see progress on these and other competitiveness fronts.

In the meantime, Mr. President, we will continue our efforts to strengthen U.S. technology policy. The bill that I am introducing today is a critical step in that direction, and I look forward to its early consideration and enactment.

By Mr. SIMON (for himself, Mr. LEAHY, Mr. HATCH, Mr. DECONCINI, Mr. KENNEDY, Mr. KOHL, and Mr. BROWN):

S. 1035. A bill to amend section 107 of title 17, United States Code, relating to fair use with regard to unpublished copyrighted works; to the Committee on the Judiciary.

FAIR USE WITH REGARD TO UNPUBLISHED COPYRIGHTED WORKS

• Mr. SIMON. Mr. President, today I introduce a bill important to scholarly research and the preservation of history, involving both constitutional first amendment rights and copyright law. I am pleased to be joined in this

effort by Senators LEAHY, HATCH, DECONCINI, KENNEDY, KOHL, and BROWN. The issue in a nutshell is this: How do we balance the interests of accurate scholarship and journalism against the right of authors and other copyright owners to control the publication or use of their unpublished work? Some Federal courts appear to have adopted a rule that would tip the scales against critical historical analysis. This bill is an attempt to restore the appropriate balance.

Mr. President, one of the fundamental tenets of sound scholarly research is this command: Go to the original source. As an amateur historian and author myself, I know how important it is for scholars to cite directly from authentic documents. Sometimes only a person's actual words can adequately convey the essence of a historical event.

Of course, there can be abuse of this kind of citation. No one would argue that I could publish a stolen draft of Scott Turow's next novel on the pretext of reporting the results of my research. There has to be a balance.

That balance has already been struck under the fair use clause of the Copyright Act of 1976 at section 107. By enacting that clause, Congress in effect ratified a doctrine that the courts have long recognized: That there can be limited fair use of copyrighted material for purposes such as scholarship or news reporting without infringing on the author's copyright. The courts have developed a complex and sophisticated test for interpreting whether a particular use is fair. Under that test, the fact that a work is unpublished is relevant and important—but not necessarily dispositive—in the determination of whether or not a particular use is fair.

Unfortunately, the Court of Appeals for the Second Circuit, which has jurisdiction over many of the Nation's major publishing houses, has recently issued decisions that begin to upset this careful balance. The case of *New Era Publications versus Henry Holt* involves the use of unpublished letters and diaries in a critical biography of L. Ron Hubbard, founder of Scientology. In that case, the court suggests that virtually any quotation of unpublished materials is an infringement of copyright and not a fair use.

This is an unfortunate interpretation of language from *Harper & Row versus Nation Enterprises*, an earlier case in which the Supreme Court held extensive quotation from the unpublished memoirs of President Ford to be an infringement of copyright. However, *Harper & Row* involved quotes from a purloined manuscript, that was soon to be published, in an article that was intended to scope the scheduled authorized publication of excerpts from the book in a competing news magazine.

In *Salinger versus Random House*, the second circuit expanded on the Supreme Court's decision in *Harper & Row*, barring the publication of an unauthorized biography of writer J.D. Salinger that quoted extensively from unpublished letters written by Salinger that were collected in university libraries. The Supreme Court declined to hear an appeal of either *Salinger* or *New Era*.

As chair of the Judiciary Committee Subcommittee on the Constitution, I am particularly concerned about the impact these cases will have on the first amendment right to free speech. These decisions have created something of an uproar in the academic and publishing communities. The specter of historical and literary figures and their heirs exercising an effective censorship power over unflattering portrayals has already had a chilling effect. Books that quote letters, even those written directly to the authors, have been changed to omit those quotations. Other lawsuits have been filed against biographers. If scholars and historians can be prohibited from citing primary sources, their work would be severely impaired. Ultimately, I think it no exaggeration to state that if this trend continues, it could cripple the ability of society at large to learn from history and thereby to avoid repeating its mistakes.

Mr. President, this is a straightforward bill which would direct the courts to apply the full fair use analysis to all copyrighted works, rather than peremptorily dismissing any and all citation to unpublished works as infringements. This bill is not intended to allow unlimited pirating of unpublished materials.

Nor is the bill intended to render the fact that a work is unpublished irrelevant to fair use analysis under the statutory factors. In assessing any particular use of an unpublished work, courts would still consider the fact that the work is unpublished as "an important element which tends to weigh against a finding of fair use * * *." Courts should generally retain full flexibility in applying the fair use test to various particular situations that may arise. The bill simply makes it clear that the unpublished nature of a work should not create a virtual *per se* bar to its use.

It may be that the Supreme Court, or the second circuit itself, will eventually modify these decisions by limiting their application. I would welcome that development. Nonetheless, we should not rely on the possibility that they will act. The language in this legislation can help direct their actions.

At a joint hearing held in the last session before the Senate and House Subcommittees on Intellectual Property, we heard testimony from J. Anthony Lukas and Taylor Branch—authors, respectively, of "Common

Ground" and "Parting the Waters," both prize-winning and important historical works. Each spoke convincingly of the damage that the courts' rulings could do and are doing to the practice of historical research and writing. A broad coalition of authors, publishers, and trade organizations supports this effort. As they have strong interests in protecting authors' copyrights as well as in encouraging scholarly research, I believe that this legislation is balanced.

Also testifying at the hearing were computer industry representatives concerned about the unintended consequences this bill might have on certain unpublished works such as computer source codes. As I noted upon introduction last year, this bill is not intended to provide new fair use access to those works through decompilation, and I have worked closely with those who have concerns to see that it does not.

Senator LEAHY and I have worked with interested parties for well over a year now on legislative language that will provide the necessary protection that our Nation's historians and biographers urgently need, while at the same time not doing unintended damage to the computer industry. I am pleased to announce that through the conscientious efforts of a broad range of industry representatives, we have reached an agreement that accomplishes those goals. I congratulate all involved for their hard work on this issue. With each passing day, the livelihood of scholars around the Nation remains in peril. I hope and expect that this legislation will pass in a timely manner, and I urge my colleagues to join me in supporting it.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 107 of title 17, United States Code, is amended by adding at the end thereof the following:

"The fact that a work is unpublished is an important element which tends to weigh against a finding of fair use, but shall not diminish the importance traditionally accorded to any other consideration under this section, and shall not bar a finding of fair use, if such finding is made upon full consideration of all the above factors."•

• Mr. LEAHY. Mr. President, I am pleased to join the distinguished Senator from Illinois in the introduction of this important amendment to the fair use provision of the Copyright Act. That act, grounded in the Constitution, assures that "contributors to the store of knowledge (receive) a fair return for their labors." *Harper & Row v. The Nation Enterprises*, 471 U.S. 539, 546 (1985). The fair use doctrine balances the rights that copyright confers on an au-

thor against the public's first amendment interest in the dissemination of ideas.

Section 107 of the Copyright Act sets forth the factors to be considered in evaluating whether the use made of copyrighted materials is fair. In recent years, certain courts have applied this doctrine in an overly rigid manner to the use of unpublished materials, such as letters and diaries.

The seminal statement on the fair use of unpublished works is the Supreme Court's 1985 decision in the case of *Harper & Row versus The Nation*. In that case, the *Nation* magazine, using a leaked manuscript, published an article quoting from the soon-to-be released memoirs of President Ford, scooping an authorized article planned for *Time* magazine. The Supreme Court held that the *Nation* infringed *Harper & Row*'s copyright and rejected the *Nation*'s claim of fair use. In so doing, the Court said that the unpublished nature of a work is an important factor that "narrows the scope" of fair use and "tend[s] to negate" a fair use defense. At the same time, the Court underscored the importance of other section 107 factors and emphasized that courts considering fair use claims must consider all the factors listed in section 107.

These statements by the Court are fair and proper. Nothing in this legislation is designed to alter the Court's opinion in *Harper & Row*. The problem we face arose from two decisions of the Second Circuit Court of Appeals issued in the aftermath of *Harper & Row*.

In the first case, *Salinger versus Random House*, the court held that a biography quoting and paraphrasing J.D. Salinger's unpublished letters infringed Salinger's copyright. The Court said that "[unpublished works] normally enjoy complete protection against copying any protected expression." *Salinger v. Random House, Inc.*, 811 F.2d 90, 97 (2d Cir. 1987). Two years later, in a case involving a biographer's use of the unpublished letters and diaries of Scientology founder L. Ron Hubbard, the court repeated its "complete protection" formula. *New Era Publications Intern. v. Henry Holt & Co.*, 873 F.2d 576 (2d Cir. 1989).

This formulation goes too far. It creates a virtual per se rule against the fair use of unpublished material. It has provoked genuine turmoil in the publishing industry. Witnesses at the joint hearing we held last July in the Senate Patents Subcommittee and the House Intellectual Property Subcommittee made it clear that publishers and authors are now walking on eggshells, hesitant to quote the very unpublished material that is often the soul of first rate history and biography. We heard, for example, compelling testimony from Taylor Branch, author of "Parting the Waters" and Anthony Lukas, author of "Common Ground," Pulitzer

Prize winners whose works underscore the importance of the first amendment values embodied in the fair use doctrine. Works like theirs educate us, enrich us, and enliven our national spirit. A formulation of the fair use doctrine for unpublished works that cripples the ability of writers like these to do their work cannot be right.

At the same time, we are mindful that a creator's rights of privacy and first publication deserve vigilant protection.

In particular, we heard from and have worked extensively with members of the computer software industry who were concerned that their unpublished source codes could be inadvertently jeopardized by fair use legislation. Computer software is an American success story and one of the few industries where American business is still head and shoulders above the pack. So I am pleased that we were able to craft a bill that will not put our software at risk. Nothing in this legislation is intended to broaden the fair use of unpublished computer software and I am confident that that will not be its effect.

The aim of this legislation, in brief, is to return the fair use doctrine to the status quo of *Harper & Row*. In that case, the Supreme Court struck the proper balance between encouraging the broad dissemination of ideas and safeguarding the rights to first publication and privacy. Thus, we intend to roll back the virtual per se rule of *Salinger* and *New Era*, but we do not mean to depart from *Harper & Row*.

Our bill makes clear that the absence of publication is an important element which tends to weigh against a finding of fair use, but does not bar such a finding. In addition, our bill underscores that, in discussing the importance of nonpublication, we do not mean to diminish the importance that courts have traditionally accorded to any of the section 107 factors. For example, in discussing factor No. 1—the purpose of the use—the Court in *Harper & Row* states that "every commercial use of copyrighted material is presumptively *** unfair." And the *Harper* court refers to the fourth factor—the effect of the use on the market—as the most important element of fair use.

The bill we introduce today—supported by Senators DECONCINI, HATCH, KENNEDY, BROWN, and KOHL—is the product of extended efforts to work with interested parties toward the common goal of fixing a very real problem for authors and publishers without creating a new one for the creators of computer programs.

I am confident that this carefully crafted legislation accomplishes that goal and I look forward to working with Senator SIMON and our Judiciary Committee colleagues to ensure swift action in the Judiciary Committee and on the Senate floor. I also look forward

to working with our colleagues on the House Intellectual Property Subcommittee.

Finally, let me add my appreciation for the determined efforts of the staff members who have worked on this legislation: Susan Kaplan and Brant Lee with Senator SIMON; Karen Robb and Geoff Cooper with Senator DECONCINI; Darrell Panethiere with Senator HATCH; and Carolyn Osolinik with Senator KENNEDY. I also want to thank Todd Stern and Ann Harkins on my staff for all their efforts to develop this fine piece of legislation.●

Mr. HATCH. Mr. President, I am pleased to be an original cosponsor of this bill to amend section 107 of the Copyright Act with respect to the fair use quotation of unpublished works. The negotiations that have led to the compromise language embodied in this bill have been arduous and long, but they have also been thoughtful, thorough, fair, and, ultimately, fruitful.

The bill that we introduce today clarifies an important area of copyright law, responds to legitimate concerns of scholars and authors of secondary texts, protects the common law property rights of original authors, and guards against unintended consequences that might otherwise adversely affect the ability of computer software and other high-technology industries to preserve the integrity of their copyrights. That all of this is accomplished in a one-sentence-long bill says much about the delicate intricacy of the Copyright Act of 1976 and the careful draftsmanship that has gone into this compromise language. I would also note that the bipartisan support behind the introduction of this bill further attests to the reasonableness of the compromise that it embodies.

I look forward to swift action by the Subcommittee on Patents, Copyrights, and Trademarks on this important legislation.

By Mr. SANFORD (for himself, Mr. SIMON, Mr. SHELBY, Mr. FORD, Mr. JEFFORDS, Mr. PELL, and Mr. AKAKA):

S. 1036. A bill to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes; to the Select Committee on Indian Affairs.

LUMBEE RECOGNITION ACT

Mr. SANFORD. Mr. President, over 100 years ago the Lumbee tribal leaders in southeastern North Carolina asked Congress to formally acknowledge their special heritage as native Americans. North Carolina is the proud home to more than 80,000 Indians, the most of any State east of the Mississippi, yet the Federal Government recognizes only one tribe in North Carolina, the Eastern Band of the Cherokees. With more than 39,000 members, the Lumbee are the largest nonfederally recognized tribe in the country. Today I would like to introduce the Lumbee Recogni-

tion Act which will extend Federal recognition to the Lumbee Indians by amending the Lumbee Act of 1956.

Leading anthropologists and historians have concluded that the Lumbees meet all the criteria required for recognition. In response to Federal bills, Congress asked the Department of the Interior to investigate the tribe's history and condition. On three separate occasions, in 1912, 1915, and 1933, the Department concluded that the Lumbees were indeed Indians existing as a separate and independent community, but nevertheless, the Lumbees have been denied Federal recognition.

In December 1987, the Lumbee Indians came to Washington and filed a fully documented petition for Federal acknowledgment with the Bureau of Indian Affairs. I felt then, as I do now, that theirs is a special case that makes it necessary to circumvent the usual recognition process. The Associate Solicitor at the Interior Department testified last October that the Lumbees are ineligible to proceed through the Bureau of Indian Affairs process due to a statutory bar in the 1956 Lumbee Act. A legislative precedent for circumventing this process was set once before, when the Tiwa Tribe of Texas was precluded from the normal administrative process due to prior legislation, and Congress granted them recognition in 1987.

Simple fairness to the Lumbee people dictates that Congress should act on this legislation. In addition, by legislatively recognizing the Lumbees, extraordinary administrative burdens and the cost of processing the Lumbee petition can be avoided. This legislation serves the ends of justice, a balanced Federal Indian policy, and fiscal responsibility.

Let us not neglect the Lumbee any longer. I call on my colleagues to support this effort to extend to the Lumbee Indians the status they deserve as a federally recognized tribe.

By Mr. MURKOWSKI (for himself and Mr. JEFFORDS):

S. 1037. A bill to amend the Immigration and Nationality Act to revise certain health requirements regarding the admission of certain disabled veterans and to revise the period of active military service required for a veteran to qualify for naturalization; to the Committee on the Judiciary.

IMMIGRATION OF NONCITIZEN VETERANS

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation which will prevent the service-connected injuries and disabilities of non-U.S. citizen veterans of the U.S. Armed Forces from being held against them if they subsequently seek naturalization or admission to the United States.

The Congress has recognized that noncitizen soldiers have forged a bond with our country. We have therefore made it easier for these individuals to

qualify for future citizenship by allowing them to apply for naturalization upon completion of 3 years of active duty in the U.S. Armed Forces.

However, I understand that there are circumstances that may defeat congressional intent and erect an unnecessary barrier between these veterans and the United States.

For example, a servicemember who is injured or disabled while on active duty may be given a medical discharge prior to the scheduled completion of his or her duty.

If such a medical discharge were given prior to completion of 3 years of active duty, a noncitizen veteran would be denied qualification for naturalization because of a disability or injury that was incurred while in our Nation's service.

Similarly, the Immigration and Naturalization Service has the authority to deny entry to our country on the basis of health or disability. This authority is based on the sound principle that entry into the United States is solely at our discretion and that, as a nation, we should not place ourselves in a position of having to care for or support the world's ill or disabled.

However, applied on a blanket basis, this principle would also apply to noncitizen veterans of the U.S. Armed Forces with service-connected disabilities which were incurred while in our service. I believe that barring entry into the United States under these circumstances is not consistent with the principles which guide this great Nation.

I note that admitting these men and women with service-connected disabilities into the United States does not increase the taxpayers obligation one cent.

There are no increased costs because currently all U.S. veterans, without regard to citizenship or residence, are currently entitled to both disability compensation and medical care for their service connected disabilities.

I also note that the legislation would not bar INS consideration of other factors or disabilities other than the service-connected disability in determining suitability for entrance into the United States.

According to a General Accounting Office report issued last September about 6,277 veterans residing outside the U.S. receive compensation for service-connected disabilities. A substantial, but unknown, number of these veterans are already U.S. citizens. Thus, the number of veterans which could make use of this authority is not large.

This bill would address these issues by allowing the INS to disregard the service-connected disabilities of non citizen veterans of the U.S. Armed Forces when addressing their health status for purposes of determining their suitability for entry into this

country. Also, the bill would allow a veteran to qualify for naturalization with less than 3 years military service if the veteran was discharged early because of a service-connected disability.

I believe these provisions will keep faith with those who served in the Armed Forces and were injured or disabled while in our service, without adding to the burden of the U.S. taxpayer. I urge my colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADMISSION HEALTH REQUIREMENTS.

Section 212(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)) is amended by adding at the end the following new subparagraph:

"(C) WAIVER FOR CERTAIN SERVICE-CONNECTED DISABILITIES.—Subparagraph (A) shall not apply to a disease or disorder that is compensable (or except for such alien's receipt of retirement pay, would be compensable) as a service-connected disability under chapter 11 of title 38, United States Code."

SEC. 2. ELIGIBILITY OF A VETERAN FOR NATURALIZATION.

Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking "three years," and inserting "two years (or for any period if such person is separated by reason of a disability that is compensable, or except for such person's receipt of retirement pay would be compensable, as a service-connected disability under chapter 11 of title 38, United States Code)."

By Mr. CHAFEE:

S. 1038. A bill to amend the Solid Waste Disposal Act to encourage recycling of waste tires and to abate tire dumps and tire stockpiles, and for other purposes; to the Committee on Environment and Public Works.

WASTE TIRE RECYCLING, ABATEMENT AND DISPOSAL ACT

• Mr. CHAFEE. Mr. President, today I am introducing legislation to address a serious environmental problem: That posed by the improper disposal and stockpiling of used tires.

First let's discuss the magnitude of the problem:

Americans generate approximately 250 million scrap tires each year.

It is estimated that 2½ to 3 billion tires have been accumulated in above-ground stockpiles across the United States.

These stockpiles can catch fire from lightning or vandalism, and also cause disease. A 1984 fire in Virginia burned for several months, was visible in seven States and cost \$5.4 million to extinguish. Tire fires produce a toxic smoke and oily liquid residue.

EPA received reports of 46 fires in 1987, 65 fires in 1988 and 87 fires in 1989

at tire stockpiles. Approximately 10 tire fires per year are considered major fires.

Landfills have become reluctant to take scrap tires because they float to the surface and create spaces for water infiltration and rodent habitat.

Scrap tires make up 2 percent of the municipal solid waste stream—3 million of the 180 million tons; 8 percent are burned, 3 percent are recycled, and 4 percent are exported.

Tires piles are also breeding grounds for encephalitis-carrying mosquitoes and rodents. Tires imported from the Far East brought the Asian tiger mosquito to the United States in the mid-1980's. It is now considered a serious health threat at tire storage sites.

Now that we understand the problem, how can we solve it? The legislation I am introducing confronts the problems on several fronts:

It will encourage States to adopt a program to safely manage existing tires piles to limit disease and fire problems. Disease is associated with the storage of whole tire outdoors where they can accumulate water for mosquito breeding. States participating in the program would require that all tires newly removed from vehicles be shredded to a size that won't hold water. The bill also includes specifications for tire piles—size and spacing—which would make it easier to extinguish a tire fire in the event one begins.

Ultimately the bill requires that tires be recycled, shredded, or safely disposed in landfills by the year 2000.

A key provision of my bill requires that each State use rubber-modified asphalt tires in a small portion of its new pavement. If 7 percent of all the asphalt pavement poured in the United States each year—490 million tons—contained just 60 pounds of rubber per ton, 180 million tires would be consumed in road construction.

Some States—Arizona and California—already use to a limited extent finely ground rubber as a binder in asphalt and have found that it performs quite well. In fact, it may increase the life of the pavement because it is more flexible under cold conditions. Since a very large amount of asphalt is poured for road construction each year, this is a promising market.

A summary of the bill follows: I am also introducing a separate bill which includes the financing provisions of the legislation.

In closing, I want to point out that this legislation, when enacted will solve several problems: Not only will it eliminate a serious threat to public health and the environment, it will preserve dwindling landfill capacity and create incentives to utilize waste material as a resource. A tire dump in Rhode Island holds an estimated 15 million tires, and has been called the most serious environmental threat in

the State. This legislation will assist Rhode Island, and every State, in addressing this threat.

Mr. President, I urge my colleagues to join me in supporting this legislation to prevent environmental disasters, and solve a difficult part of the solid waste problem. I request that the attached summary of the legislation, and the legislation, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1038

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "Waste Tire Recycling, Abatement and Disposal Act of 1991".

SEC. 2. FINDINGS.—The Congress finds that—

(a) the Nation generates approximately 250 million waste tires each year with nearly 3 billion waste tires stored or dumped in aboveground piles across the country;

(b) current waste tire collection and disposal practices present a substantial threat to human health and the environment; waste tire piles are a breeding habitat for disease-carrying mosquitoes, rodents and other pests and may be ignited causing potentially catastrophic fires;

(c) there are substantial opportunities for recycling and reuse of waste tires and tire-derived products including tire retreading, rubber-modified asphalt paving, rubber products and fuel;

(d) although several States have established waste tire recycling programs and disposal requirements to protect human health and the environment, the efforts of individual States are often frustrated by the lack of comparable programs in neighboring States; and

(e) additional financial resources are necessary to encourage waste tire recycling and proper disposal and the abatement of existing waste tire dumps.

SEC. 3. SOLID WASTE DISPOSAL ACT AMENDMENT.—Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"WASTE TIRE RECYCLING, ABATEMENT AND DISPOSAL

"SEC. 4011. (a) OBJECTIVES.—The objectives of this section are—

"(1) to encourage waste tire recycling;

"(2) to prevent disease and fires which may be associated with waste tire dumps and waste tire stockpiles;

"(3) to assure that all waste tire dumps within the United States are closed and abated within four years and that all waste tire stockpiles are abated by not later than December 31, 1999; and

"(4) to otherwise regulate commerce in waste tires to protect human health and the environment.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'tire' means any pneumatic or solid tire including, but not limited to, tires manufactured for use on any type of motor vehicle, construction and other off-road equipment, aircraft and industrial machinery;

"(2) the term 'waste tire' means a tire that is no longer suitable for its original intended purpose because of wear, damage or defect

and includes material resulting from shredding a tire;

"(3) the term 'collection site' means a facility, installation, building or site (including all of the contiguous area under the control of one person or persons controlled by the same person) used for the storage or disposal of more than 400 waste tires but not including shredded tire material that has been properly disposed;

"(4) the term 'tire collector' means a person who owns or operates a collection site;

"(5) the term 'tire hauler' means a person engaged in picking up or transporting waste tires to a storage or disposal facility;

"(6) the term 'tire processor' means a person who processes waste tires to produce or manufacture usable materials or to recover energy;

"(7) the term 'shredded tire material' means tire material resulting from tire shredding which produces pieces four square inches or less in size which do not hold water when stored in piles;

"(8) the term 'tire dump' means a tire collection site without a collector or processor permit that is maintained, operated, used or allowed to be used for the disposal, storing, or depositing of waste tires;

"(9) the term 'tire stockpile' means a waste tire collection site operating pursuant to a permit issued by the Administrator or by a State with a program approved under subsection (f) at which shredded tire material from 50 or more waste tires is stored for future processing or disposal;

"(10) the term 'process' means to produce or manufacture usable materials (including fuels) with real economic value from waste tires;

"(11) the term 'recycle' means to process waste tires to produce usable materials other than fuels;

"(12) the term 'abate' or 'abatement' means (A) to remove waste tires from a waste tire dump or waste tire stockpile by processing or properly disposing of such tires on an enforceable schedule assuring compliance with the prohibitions of subsection (c), or (B) action taken pursuant to subsection (i) or equivalent authority under a State program to process or properly dispose waste tires;

"(13) the term 'properly disposed' means the placement of shredded tire material as a solid waste into a landfill meeting the revised criteria established pursuant to section 4010(c);

"(14) the term 'marine or agricultural purpose' means the use of waste tires as bumpers on vessels or agricultural equipment or as a ballast to maintain covers or structures on an agricultural site or for other legitimate marine or agricultural purposes as specified by rule by the Administrator; and

"(15) the term 'rubber-modified asphalt pavement' means asphalt pavement averaging not less than 60 pounds of crumb rubber or other tire-derived material for each ton of finished product and may be formulated from hot mix or cold mix processes for use in base or surface applications.

"(c) PROHIBITIONS.—

"(1) Beginning twelve months after the date of enactment of this section, it shall be unlawful to dispose of whole waste tires on the land or in a landfill. The Administrator shall before such date modify the criteria established pursuant to section 4010(c) to include the prohibition established by this paragraph.

"(2) Beginning twelve months after the date of enactment of this section it shall be unlawful to receive any waste tires at any

collection site unless, within seven days of receipt, such waste tires are processed, converted to shredded tire material or transferred to a business engaged in tire retreading.

"(3) Beginning twelve months after the date of enactment of this section it shall be unlawful to operate a collection site except in compliance with the following conditions applicable to waste tire piles including piles containing shredded tire material—

"(A) waste tire piles shall be no more than 20 feet in height and at the base no more than 50 feet in width and 200 feet in length;

"(B) a separation of at least 50 feet shall be maintained between waste tire piles;

"(C) waste tire piles shall be at least 200 feet from the perimeter of the property and at least 200 feet from any building;

"(D) until shredded, waste tires in piles shall be maintained to minimize mosquito breeding by cover or chemical treatment;

"(E) waste tire piles shall be accessible to fire fighting equipment and approach roads shall be maintained in good condition;

"(F) waste tire piles exceeding 2,500 waste tires shall be surrounded by a berm sufficient to contain any liquid which may be discharged as the result of fire or fire fighting efforts;

"(G) waste tire piles exceeding 2,500 waste tires shall be completely enclosed behind fencing;

"(H) a tire collector maintaining a collection site containing more than 2,500 waste tires shall prepare and maintain an emergency plan to respond to any fire or other event which may release pollutants or contaminants from such site; and

"(I) such other conditions as the Administrator may by rule require to protect human health and the environment including compliance with NFPA 231-D or similar fire prevention code to the extent such code (or codes) is not inconsistent with this section.

"(4) Beginning forty-eight months after the date of enactment of this section it shall be unlawful to store more than 1,500 waste tires for more than seven days at collection sites other than as shredded tire material in waste tire stockpiles, except as provided under subsection (d).

"(5) Beginning twelve months after the effective date of any State program approved or promulgated by the Administrator under this section, it shall be unlawful for any person to: (i) transfer control over any waste tires for transportation to a collection site to any person other than a person operating under a permit as a tire hauler; (ii) operate or maintain any waste tire dump or deliver to or receive waste tires for storage or disposal at a waste tire dump; (iii) deliver waste tires to or receive waste tires at any collection site which does not qualify as a waste tire stockpile; or (iv) to operate or maintain a waste tire stockpile or to deliver to or receive waste tires for storage or disposal at a waste tire stockpile, except in compliance with a permit issued by a State with a program approved under subsection (f) or by the Administrator.

"(6) Beginning January 1, 2000 it shall be unlawful for any person to operate or maintain a waste tire stockpile containing shredded tire material from more than 2,500 waste tires or, in the case of a tire processor, more than 30 days supply of shredded tire material to be used as a feedstock within the process. This paragraph shall not be interpreted, construed or applied to prohibit the proper disposal of shredded tire material in a monofill for later recovery.

"(d) EXEMPTIONS.—The Administrator may by regulation exempt any of the following

persons from any or all of the requirements of this section, if such exemption is not inconsistent with the goals and requirements of this Act and no threat of an adverse effect on human health or the environment will result from such exemption—

"(1) tire retailers storing less than 2,500 waste tires at any collection site where new tires are sold or installed;

"(2) tire retreaders storing less than 2,500 waste tires or a quantity of waste tires equal to the number to be retreaded over a 30-day period, whichever is greater, at any collection site where tires are retreaded;

"(3) businesses which remove tires from vehicles storing less than 2,500 waste tires at any collection site where such removals occur;

"(4) solid waste disposal facilities storing less than 2,500 waste tires for future processing or disposal which are otherwise in compliance with the revised criteria promulgated pursuant to section 4010(c) and which have already received a permit under a State solid waste program imposing conditions and requirements to protect human health and the environment comparable to those imposed by this section; or

"(5) any person storing or using waste tires for a marine or agricultural purpose provided that such waste tires are used for such purpose within six months of the date the tire is removed from use.

The Administrator is authorized to impose alternative requirements, including requirements for fire prevention and disease control, and may include such requirements in the guidance published under subsection (f)(2) on persons described in paragraphs (1) through (5) as a condition for any exemption or partial exemption under this subsection.

"(e) REGISTRATION.—(1) Not later than twelve months after the date of enactment of this section each tire hauler, tire collector and tire processor shall notify the Administrator or the State agency designated pursuant to this subsection including in such notification the following information—

"(A) the name and business address of the tire hauler, tire collector or tire processor;

"(B) the name and business address of the person or persons owning any property on which a tire collection site is located;

"(C) the location and a physical description of each collection site maintained by a tire collector;

"(D) the name of the person to contact in the event of an emergency involving waste tires located at each collection site;

"(E) an estimate of the number of waste tires that are at each collection site;

"(F) an estimate by a tire collector or tire processor of the average number of waste tires that are received at each collection site maintained by such collector or processor each month and the sources from which waste tires are received;

"(G) an estimate by a tire hauler of the average number of waste tires that are delivered to each collection site each month;

"(H) a description of methods used at each collection site to shred, process, recycle or dispose of waste tires;

"(I) a description of the fire prevention and disease control methods employed at each collection site;

"(J) a certification signed by the owner or operator of each collection site assuring compliance with the provisions of paragraphs (2) and (3) of subsection (c) by the applicable dates or assuring that the collection site will be closed and will be abated by the date twelve months after the date of enact-

ment of this section, if compliance with such provisions cannot be certified;

"(K) a statement demonstrating the financial capacity of the tire collector or the owner or operator of each collection site to abate waste tires at the site and to respond to any fire or other event which may result in the release of pollutants or contaminants from the site in an amount of not less than \$1.00 for each tire stored, deposited or otherwise located at the facility, other than tires that have been properly disposed at the site; and

"(L) such other information as the Administrator may require.

"(2) Not later than ninety days after the date of enactment of this section the Administrator shall publish a notification form (or forms), including with such form a designation of the State agencies which are to receive such forms, to be used by tire haulers, tire collectors and tire processors in compliance with this subsection. Development and publication of the form shall not be subject to the Paperwork Reduction Act. Designation of State agencies to receive notification forms shall be carried out in cooperation with the Governor of each State.

"(f) STATE PROGRAMS.—

"(1) IN GENERAL.—Beginning twelve months after the date of enactment of this section, the Governor of any State may apply to the Administrator to implement a waste tire recycling, abatement and disposal program under this subsection.

"(2) EPA GUIDANCE.—Not later than twelve months after the date of enactment of this section, the Administrator shall publish guidance establishing the minimum elements of a program to be administered under this section by a State agency. These elements shall include the requirements set forth in paragraphs (3), (4) and (5) and each of the following—

"(A) adequate authority to assure compliance with and enforce the prohibitions established by subsection (c) and each of the other requirements of this Act applicable to tire haulers, tire collectors or tire processors;

"(B) authority to abate any waste tire dump or waste tire stockpile within such State comparable to the authority granted the Administrator under subsection (i) and a plan to assure that such dumps and stockpiles are abated by no later than the dates applicable under subsection (c);

"(C) a requirement that each tire hauler, tire collector or tire processor operate pursuant to a permit issued by the State;

"(D) adequate authority to assure that the fees imposed by paragraph (4) are collected by the State on the sale of new tires and by tire haulers, tire collectors and tire processors on commerce in waste tires;

"(E) authority to require that tire haulers operating in particular geographic areas deliver all or some portion of the waste tires such haulers collect to a tire processor engaged in recycling, if flow control is necessary to assure the economic viability of recycling processes in such areas;

"(F) adequate personnel and funding to administer the program; and

"(G) such other requirements as the Administrator may prescribe.

"(3) PERMIT REQUIREMENTS.—The guidance published pursuant to paragraph (2) shall with respect to permits provide, at a minimum, for the following—

"(A) a requirement that the State agency administering the program and issuing permits have adequate authority to—

"(i) issue permits that apply, and assure compliance by all persons required to have a

permit under this section with applicable standards, regulations or requirements,

"(ii) issue permits for a fixed term, not to exceed five years,

"(iii) assure that permits require compliance with the prohibitions of subsection (c),

"(iv) terminate, modify, or revoke and re-issue permits for cause,

"(v) enforce permits and the requirement to obtain a permit, including authority to recover civil penalties in a maximum amount of not less than \$10,000 per day for each violation, and to seek appropriate criminal penalties, and

"(vi) grant limited extensions of a permit's term upon a timely and complete application for renewal, pending final action upon the renewal application by the State agency;

"(B) a requirement that the permitting authority establish and implement adequate procedures for processing permit applications expeditiously, and for public notice, including offering an opportunity for public comment and a hearing, on any permit application;

"(C) a requirement that the State conduct an inspection at each waste tire collection site before a permit is issued to operate the site as a waste tire stockpile;

"(D) a requirement that all permit applications, abatement plans, permits, and monitoring or compliance reports shall be made available to the public;

"(E) a requirement under State law that each person subject to the requirement to obtain a permit under the State program pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable costs of developing, administering and enforcing the State permit program;

"(F) a requirement that each permit issued to a tire collector or processor for the operation of a waste tire stockpile include a numerical limitation on the waste tires that can be stored, processed or disposed at such site and that the tire collector demonstrates financial responsibility for processing or abating all tires that may be accumulated up to the limit in the permit; and

"(G) a requirement that each permit for a waste tire stockpile contain a schedule for the abatement of all waste tires managed, stored, disposed or otherwise deposited at the stockpile as expeditiously as practicable but not later than December 31, 1999, and containing annual incremental reductions in the quantity of waste tires stored at the site providing that fifty per centum of such abatement shall be accomplished by not later than December 31, 1996.

"(4) FEES ON PURCHASE AND DISPOSAL.—(A) The guidance published pursuant to paragraph (2) shall with respect to fees provide, at a minimum, for the following—

"(i) a requirement that the State impose a fee of not less than \$.50 on the sale of each new tire until such time as all waste tire dumps and waste tire stockpiles in the State have been abated;

"(ii) a requirement that a tipping fee of not less than \$1.00 for each waste tire removed from a motor vehicle be paid by the owner or operator of the vehicle to the person or business removing the tire;

"(iii) a requirement that any tire hauler collecting tires from any person, including businesses which remove tires and collect the fee required by subparagraph (B) or from any other location including households and commercial disposal sites, charge a fee of not less than \$1.00 for each waste tire collected; and

"(iv) a requirement that any tire collector or tire processor receiving waste tires charge

the tire hauler or any other person depositing tires at the collection or processing site owned by the collector or processor a fee of not less than \$1.00 for each waste tire deposited at the site.

"(B) The Administrator shall from time to time, but not less often than every three years, review the fees required in State programs pursuant to subparagraphs (A) (ii), (iii), and (iv) and may adjust the amount of such fee requirement to reflect the economics of tire processing and recycling. If the Administrator modifies the amount of the fee to be collected pursuant to such subparagraphs, each State with an approved waste tire recycling, abatement and disposal program shall revise its program incorporating such increases in its regulations effective within twelve months of the Administrator's determination.

"(C) A State may establish a fee system different from that required by subparagraph (A)(i), including fees on motor vehicle registrations or transfers, provided that the State demonstrates to the Administrator that such alternative fee will provide resources sufficient to assure abatement of all waste tire dumps and waste tire stockpiles in such State by not later than the dates established in subsection (c).

"(5) USES OF STATE REVENUE.—The guidance published pursuant to paragraph (2) shall require that any revenues received by a State from the fee required by paragraph (4)(A)(i) (or in the alternative paragraph (4)(C)) be placed into a special fund and that appropriations from the fund be used only to—

"(A) abate waste tire dumps and waste tire stockpiles;

"(B) make grants or loans or enter into cooperative agreements with tire processors to support recycling of waste tires;

"(C) offset any additional cost associated with the procurement of rubber-modified asphalt pavement used in road construction by the State or a local government entity or in the procurement of other products made from recycled tires; or

"(D) operate or provide grants to facilities assuring compliance with the prohibitions of subsection (c) and the proper disposal of waste tires.

Not more than fifteen per centum of the funds collected pursuant to paragraph (4)(A)(i) (or in the alternative paragraph (4)(C)) shall be used for administrative expenses of the State program.

"(6) APPLICATIONS.—Each State shall include in its program submission to the Administrator under this section a summary of the information collected pursuant to the notifications required by subsection (e). To the extent practicable, the summary shall also include information on orphan tire collection sites for which no owner or operator submitted a notification form. Not later than thirty-six months after the date of enactment of this section, the Administrator shall transmit to Congress a report on waste tire generation, management, collection, storage, recycling and disposal based on the information included in State applications.

"(7) APPROVAL OR DISAPPROVAL OF STATE PROGRAMS.—

"(A) A State program submitted under this section shall be deemed approved, unless disapproved by the Administrator. The Administrator shall disapprove any program submitted by a State, if the Administrator determines that—

"(i) the authorities contained in the program are not adequate to assure compliance by tire haulers, tire collectors and tire proc-

errors within the State with the requirements of this section;

"(ii) adequate authority does not exist, or adequate resources are not available, to implement the program;

"(iii) the program does not provide adequate assurance that all waste tire dumps and waste tire stockpiles will be abated by the dates established in subsection (c); or

"(iv) the program is not otherwise in compliance with the guidance issued by the Administrator under paragraph (2) or is not likely to satisfy, in whole or in part, the objectives of this Act.

If the Administrator disapproves a State program, the Administrator shall notify the State of any revision or modifications necessary to obtain approval. The State may revise and resubmit the program for review and approval pursuant to the provisions of this subsection.

"(B) Whenever the Administrator determines that a State is not administering a program in accordance with the guidance published under paragraph (2) or the requirements of this section, the Administrator shall so notify the State, and if action which will assure prompt compliance is not taken within 180 days, the Administrator shall disapprove the program. The Administrator shall not disapprove any program, unless the State shall have been notified and the reasons for disapproval shall have been stated in writing and made public. At the time of disapproving a State program under this subparagraph, the Administrator shall promulgate a Federal program applicable in such State pursuant to subsection (h).

"(8) ENFORCEMENT.—Nothing in this subsection shall be interpreted, construed or applied to prevent the Administrator from enforcing the prohibitions set forth in subsection (c) or any other requirement of this section.

"(9) GRANTS AND TECHNICAL ASSISTANCE.—The Administrator is authorized to make grants to the States from appropriations from the Waste Tire Recycling, Abatement and Disposal Trust Fund for the purpose of developing and implementing waste tire recycling, abatement and disposal programs under this section. The Administrator may provide assistance to State and local government agencies, and to others on a cost recovery basis, with respect to techniques for waste tire recycling, processing and abatement.

"(g) STATE AUTHORITY.—Nothing in this section shall be interpreted, construed or applied to limit the authority of any State or political subdivision thereof to impose any additional or more stringent requirements on a tire hauler, tire collector or tire processor or on the management, storage, processing, recycling, abatement or disposal of waste tires or waste tire collection sites.

"(h) FEDERAL PROGRAM.—In the event that a State has not submitted a waste tire recycling, abatement and disposal program or is not adequately administering and enforcing such program in accordance with the requirements of this section and the guidance issued under subsection (f)(2), the Administrator shall promulgate, administer and enforce a program for such State to assure compliance with each of the requirements of this section. The Administrator shall promulgate a Federal program for each State which has not submitted a program before the date three years after the date of enactment of this section on such date and shall promulgate a Federal program for each State for which approval is withdrawn pursuant to subsection (f)(7) on the date of disapproval.

The Administrator is authorized to issue permits and collect fees in lieu of a State as authorized by subsection (f). Any revenue from fees collected by the Administrator shall be placed in the Waste Tire Recycling, Abatement and Disposal Trust Fund and shall only be appropriated for the purposes authorized in subsection (k).

"(1) ABATEMENT AND RESPONSE AUTHORITIES.—

"(1) To assure compliance with the prohibitions of subsection (c) the Administrator is authorized to—

"(A) order the owner or operator of any waste tire dump, waste tire stockpile or other collection site or any other person who has transported waste tires to such site to abate such dump, stockpile or site;

"(B) undertake action to abate a tire collection site using funds from the Waste Tire Recycling, Abatement and Disposal Trust Fund.

An order issued under subparagraph (A) may include an enforceable schedule for removal of waste tires from such dump, stockpile or site.

"(2) CIVIL ACTION.—The Administrator may bring suit on behalf of the United States in the appropriate district court against owner or operator of any waste tire dump, waste tire stockpile or waste tire collection site or any other person who has transported waste tires to such dump, stockpile or site to immediately restrain any such person from operating or maintaining, or depositing waste tires at, such dump, stockpile or site or to take such other action as may be necessary to protect human health and environment.

"(3) ADDITIONAL ACTION.—If it is not practicable to assure prompt protection of the health of persons or the environment solely by commencement of civil action as authorized by paragraph (2), the Administrator may issue such orders as may be necessary to protect the health of persons or the environment.

"(4) NOTIFICATION.—Prior to taking any action under this subsection, the Administrator shall notify with the appropriate State and local authorities of the action proposed to be taken.

"(5) VIOLATIONS.—Any person who, without sufficient cause, willfully violates, or fails or refuses to comply with, any order of the Administrator under this subsection may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than \$25,000 for each day in which such violation occurs or such failure to comply continues.

"(6) LIABILITY FOR ABATEMENT COSTS.—If the Administrator takes any abatement action pursuant to paragraph (1) at any waste tire collection site, the tire collector owning or operating such site or any other person who has transported tires to such site shall be liable to the Administrator for all reasonable costs incurred in such abatement. The amount of such costs shall be recoverable in an action brought in the appropriate United States district court. Any funds recovered pursuant to this paragraph shall be deposited in the Waste Tire Recycling, Abatement and Disposal Trust Fund.

"(j) PUBLIC LANDS.—Not later than twenty-four months after the date of enactment of this section, and after notice and opportunity for public comment, the Secretary of the Interior, the Administrator of the General Services Administration, and the head of each other Federal department, agency or instrumentality owning land on which a tire collection site is located shall, in consultation with the Administrator of the Environ-

mental Protection Agency, prepare and commence to implement a plan to abate waste tire dumps and waste tire stockpiles which are located on lands owned by the United States. Such plan shall assure that all waste tires in such dumps and stockpiles shall be properly disposed, recycled or transferred to the operators of tire processing facilities as expeditiously as practicable but not later than December 31, 1996. There is authorized to be appropriated to the Secretary of the Interior, to the Administrator of the General Services Administration, and to the head of each other Federal department, agency or instrumentality owning land on which a collection site is located from the Waste Tire Recycling, Abatement and Disposal Trust Fund such funds as may be necessary to carry out the requirements of this subsection.

"(k) USE OF TRUST FUND APPROPRIATIONS.—There is authorized to be appropriated from the Waste Tire Recycling, Abatement and Disposal Trust Fund such sums as may be necessary for the purposes established by this subsection.

"(4) STATE GRANTS.—The Administrator is authorized to make grants to the States from funds appropriated from the Waste Tire Recycling, Abatement and Disposal Trust Fund for the purpose of developing and implementing State programs under subsection (f) and carrying out the other purposes of this section.

"(2) SHREDDING CAPACITY.—In making grants under paragraph (1), the Administrator shall give highest priority to assuring that adequate capacity is available to convert all waste tires newly removed from motor vehicles to shredded tire material beginning twelve months after the date of enactment of this section. The Administrator is authorized to make emergency grants to the States to assure such capacity and shall use the borrowing authority of the Waste Tire Recycling, Abatement and Disposal Trust Fund to accomplish this purpose.

"(3) ABATEMENT OF PUBLIC LANDS.—The Secretary of the Treasury is authorized to transfer, pursuant to appropriation acts, funds from the Waste Tire Recycling, Abatement and Disposal Trust Fund to the Secretary of the Interior, the Administrator of the General Services Administration, or the head of any other Federal department, agency or instrumentality on which a waste tire collection site is located for the purpose of abating such collection site or sites.

"(4) FEDERAL PROCUREMENT.—The Secretary of the Treasury is authorized to transfer, pursuant to appropriation acts, funds from the Waste Tire Recycling, Abatement and Disposal Trust Fund to the Secretary of Transportation or to the head of any other Federal department, agency or instrumentality engaged in road building for the purpose of offsetting additional costs associated with the procurement of rubber-modified asphalt pavement for road construction, surfacing or resurfacing.

"(5) FEDERAL PROGRAMS AND ABATEMENT ACTIONS.—There are authorized to be appropriated from the Waste Tire Recycling, Abatement and Disposal Trust Fund to the Administrator such funds as may be necessary to implement and enforce any Federal program promulgated pursuant to subsection (h) and to take abatement actions as authorized by subsection (i).

"(6) RESEARCH.—The Administrator is authorized to make grants and enter into contracts and cooperative agreements with any person or persons using funds appropriated from the Waste Tire Recycling, Abatement

and Disposal Trust Fund for the purpose of conducting research and development on waste tire processing and recycling technologies or on the use, performance and marketability of products made from crumb rubber or other materials produced from waste tire processing. The Administrator shall, in cooperation with the Secretary of Transportation, conduct a program of research to determine (A) the public health and environmental risks associated with the production and use of rubber-modified asphalt pavement; (B) the performance of rubber-modified asphalt pavement under various climate and use conditions; and (3) the degree to which rubber-modified asphalt pavement can be recycled. The research program required by the preceding sentence shall be completed not later than three years after the date of enactment of this paragraph.

“(1) ENFORCEMENT.—

“(1) COMPLIANCE ORDERS.—

“(A) Whenever on the basis of any information the Administrator determines that any person has violated, or is in violation of, any requirement or prohibition in effect under this section (including any requirement or prohibition in effect under regulations under this section), the Administrator may issue an order (I) assessing a civil penalty for any past or current violation, (II) requiring compliance immediately or within a specified time period, or (III) both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction. Any order issued pursuant to this paragraph shall state with reasonable specificity the nature of the violation.

“(B) Any penalty assessed in an order under this subsection shall not exceed \$25,000 per day of noncompliance for each violation of a requirement or prohibition in effect under this section. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

“(C) Any order issued under this paragraph shall become final unless, not later than 30 days after the issuance of the order, the persons named therein request a public hearing. Upon such request, the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this paragraph, the Administrator may issue subpoenas for the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

“(D) In the case of a final order under this paragraph requiring compliance with any requirement or regulation under this section, if a violator, without sufficient cause, fails to take corrective action within the time specified in an order, the Administrator may assess a civil penalty of not more than \$25,000 for each day of continued noncompliance with the order.

“(2) CRIMINAL PENALTIES.—Any person who—

“(A) knowingly violates the requirements of or regulations under this section; or

“(B) knowingly omits material information or makes any false material statement or representation in any record, report, or other document filed, maintained, or used for purposes of compliance with this section or regulations thereunder

shall, upon conviction, be subject to a fine of not more than \$50,000 for each day of violation, or imprisonment not to exceed 2 years. If the conviction is for a violation committed after a first conviction of such person

under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

“(3) CIVIL PENALTIES.—Any person who violates any requirement of or regulation under this section shall be liable to the United States for a civil penalty in an amount not to exceed \$25,000 for each such violation. Each day of such violation shall, for purposes of this section, constitute a separate violation.”

SEC. 4. USE OF RUBBER-MODIFIED ASPHALT PAVEMENT.—(a) Beginning on the date four years after the date of enactment of this Act, the Secretary of Transportation shall make no grant to any State under title 23 of the United States Code, other than projects or grants for safety where the Secretary determines that the principal purpose of the project is an improvement in safety that will result in a significant reduction in or avoidance of accidents, for any year unless the State shall have submitted to the Secretary a certification that not less than 10 per centum of the asphalt pavement laid in the State is such year and financed in whole or part by such grants shall be rubber-modified asphalt pavement. The Secretary may establish a phase-in period for the requirements established by this section, if the Secretary determines that such phase-in period is necessary to establish production and application facilities for rubber-modified asphalt pavement. Such phase-in period shall not extend beyond the date eight years after the date of enactment of this section. The Secretary may increase the percentage of rubber-modified asphalt pavement to be used in federally-assisted highway projects to the extent it is technologically and economically feasible and if an increase is appropriate to assure markets for the reuse and recycling of waste tires.

(b) The Secretary may set aside the provisions of this section for any three-year period on a determination, made in concurrence with the Administrator of the Environmental Protection Agency, that there is reliable evidence indicating—

(1) that techniques for mixing and applying rubber-modified asphalt pavement substantially increase risks to human health or the environment as compared to the risks associated with mixing and applying conventional pavement;

(2) that rubber-modified asphalt pavement cannot be recycled to the same degree as conventional pavement; or

(3) that rubber-modified asphalt pavement does not perform satisfactorily as a material for the construction or surfacing of highways and roads.

(c) Any determination made to set aside the requirements of this section may be renewed for an additional three-year period by the Secretary with the concurrence of the Administrator. Any determination made with respect to subsection (b)(3) may be made for specific States or regions considering climate, geography and other factors that may be unique to the State or region.

(d) The Secretary may, upon the request of a particular State and with the concurrence of the Administrator of the Environmental Protection Agency, modify the minimum percentage of rubber-modified asphalt pavement to be used in the construction of federally-assisted highway projects in such State, if the Secretary determines that there is not a sufficient quantity of waste tires available prior to disposal in the State to meet the 10 per centum requirement established by subsection (a) and each of the other recycling and processing uses, including retreading, for which waste tires are required.

(e) The Secretary may grant a State credit toward the requirement that 10 per centum of the asphalt pavement used in federally-assisted highway projects in the State be rubber-modified asphalt pavement for volumes of rubber-modified asphalt pavement used in other road and other construction projects, provided that the total volume of rubber-modified asphalt pavement used in the State in any year is not less than 10 per centum of the conventional pavement used in federally-assisted highway projects.

SEC. 5. ADDITIONAL PROCUREMENT GUIDELINES.—Section 6602(e) of the Solid Waste Disposal Act is amended by adding after “October 1, 1985,” the following: “Not later than December 31, 1993 the Administrator shall prepare final guidelines for rubber products (including asphalt pavement) containing crumb rubber derived by processing waste tires.”

SEC. 6. CONFORMING AMENDMENTS.—The table of contents for subtitle D of the Solid Waste Disposal Act (contained in section 1001 of such Act) is amended by adding at the end thereof the following new item:

“Sec. 4011. Waste tire recycling, abatement and disposal.”

SUMMARY OF THE WASTE TIRE RECYCLING BILL

Section 1 is the title of the bill: the Waste Tire Recycling, Abatement and Disposal Act of 1991.

Section 2 contains Congressional findings including: (1) 250 million tires are disposed each year and 3 billion have accumulated in tire piles; (2) current storage and disposal practices are threat to human health and the environment; and (3) there are opportunities to recycle tires.

Section 3 amends the Solid Waste Disposal Act (RCRA) adding a new section to subtitle D with several elements:

Purposes: (1) to encourage tire recycling; (2) to prevent disease and fires; (3) to require abatement (reduction in size of stockpiles to not more than 2500 tires in any pile) by the year 2000; and (4) to regulate commerce in scrap tires.

Definitions: The most important include: (1) a tire collection site is anything more than 400 tires; (2) shredding means to process tires to a size that won't hold water; (3) recycle does not include burning; (4) abate means to reduce the size of a tire pile to not more than 2500 shredded tires; (5) properly disposed means shredded and placed in a landfill meeting subtitle D criteria; and (6) rubber-modified asphalt means asphalt containing 60 pounds of crumb rubber per ton of pavement.

Prohibitions: (1) disposal of whole tires in landfills is banned one year after enactment; (2) beginning one year after enactment, tires newly removed from a vehicle must be shredded or processed within 7 days; (3) also beginning one year after enactment, fire and disease prevention standards including maximum pile size and minimum spacing requirements are imposed on tire collection sites; (4) beginning four years after enactment all tires in existing piles must be shredded; (5) a year after state programs are adopted (which will generally be three years after enactment) all tire haulers and collectors must operate under state-issued permits; and (2) after the year 2000 tire piles bigger than 2500 tires are prohibited.

Exemptions: (1) retailers storing not more than 1500 tires at one site; (2) retreaders storing a 30-day supply of casings; (3) service stations and others who remove tires storing not more than 1500 tires at one site; (4) land-

fills storing not more than 2500 tires for processing or disposal; (5) marine and agricultural uses if used within 6 months.

Registration: All tire haulers, tire collectors and tire processors are required to notify state agencies within six months of enactment providing information on waste tire stockpiles and collection practices.

State Programs: EPA is to provide guidance within 12 months. Any state can apply to run a program which meets guidance. State programs must require permits for haulers, collectors and processors. States must collect fees of at least 50 cents for each new tire sold and use revenue to manage programs. States must have a plan providing for the abatement of all tire stockpiles. States must inspect sites before permits are granted. Tire collectors must show financial responsibility for abatement of tires stored (a bond in the amount of approximately \$1 per tire allowed to be stored under permit). Permits must contain abatement schedules assuring that all tire piles are abated by year 2000. States must have authority to order abatement of tire piles. A tipping fee of \$1 per tire is also to be charged to vehicle owner upon removal of used tire.

EPA Program: EPA is to establish program for each state which does not have one by the date three years after enactment. EPA's program would be identical to a state program.

Abatement Authority: EPA is given authority to order the abatement of a tire pile. EPA also is given authority to cleanup a tire pile and recover costs from the owner of the site.

Public Lands: The head of each federal agency owning land on which a tire stockpile is located is to develop an abatement plan.

Enforcement: EPA is given enforcement authority equivalent to that available under subtitle C of RCRA to take action against any person violating these new provisions.

Section 4 of the bill requires each state to use rubber-modified asphalt pavement in 10% of its federally-assisted road construction as a condition of receiving federal highway grants. The requirement begins four years after enactment. DOT can delay the requirement for three years if it finds that rubber-modified asphalt pavement: (1) presents greater environmental risks; (2) is not technically feasible; (3) cannot be recycled to the same extent as conventional asphalt. DOT is also authorized to modify the 10% requirement, requiring a lesser percentage if tires are being used for other purposes to the extent that those uses conflict with recycling into pavement.

Section 5 requires EPA to publish a federal procurement guideline for rubber-modified asphalt pavement not later than December 31, 1993.

Section 6 includes conforming amendments to RCRA.

SUMMARY OF TAX AMENDMENTS

Section 1 imposes a federal tax of 50 cents per tire on the sale of new tires. The tax would collect approximately \$120 million per year and extends for a period of five years.

Section 8 creates a trust fund to receive the revenues from the new federal tire tax. The trust fund could be used to: (1) make grants to the states; (2) establish shredding capacity for newly removed tires; (3) abate tire piles on federal lands; (4) purchase rubber-modified asphalt for federal projects; (5) finance abatement at orphan tire collection sites; and (6) conduct research on tire recycling technologies.●

By Mr. GLENN (for himself, Mr. LEVIN, Mr. KOHL, and Mr. LIEBERMAN):

S. 1040. A bill to provide for a Governmentwide comprehensive energy management plan for Federal agencies; to the Committee on Governmental Affairs.

GOVERNMENT ENERGY EFFICIENCY ACT

● Mr. GLENN. Mr. President, I rise today to introduce the Government Energy Efficiency Act of 1991 and the Federal Alternative Vehicle Procurement and Management Act of 1991. This comprehensive bill is designed to restore some effective management and accountability in the Federal Government's energy costs and consumption. It also seeks to ensure that the Federal Government becomes a leader in the acquisition and usage of energy-efficient products and technologies.

As Congress considers the proposed national energy strategy, many of my colleagues have introduced legislation to enhance our Nation's security through an aggressive R&D and conservation regimen. And I applaud their diligent efforts in this area.

As chairman of the Committee on Governmental Affairs, I'd like to do my part for the Federal Government. The Federal Government spends \$9 billion a year on energy in managing its own facilities; that's more than just spare change. A report on energy efficiency in the U.S. Government prepared by the Office of Technology Assessment [OTA], to be released at a hearing before my committee on May 14, estimates that our utility bill could be cut by some \$900 million per year if cost effective, commercially available energy conservation measures were implemented in Federal buildings. Obviously, that may take some serious commitment, and some up-front funding costs, but the potential savings and paybacks which the taxpayers would reap are substantial.

Between 1975 and 1985 the Federal Government made some headway in curtailing its energy use. However, since 1985 it's been a different story. Total energy consumption by the Feds has gone up over 4 percent. Despite a mandate to achieve a 10 percent reduction in building energy use by 1995, consumption has actually increased since the 1985 level. I think it's fair to say that it will be difficult for agencies to attain this goal.

Why can't the Federal Government save more energy? It has received the authority and guidance to do so from both Congress and the President. Yet these savings have not been realized because of several factors, among them a lack of coordination and accountability, low priority, few incentives, poor information, and inadequate personnel and monetary resources throughout Government.

I know what old man winter can do to the monthly utility bills of my fel-

low Ohioans. And when the costs or usage go up, many people respond by undertaking energy-saving improvements, like weatherizing and caulking doors and windows, cleaning heating vents, taping the pipes and water heater, turning down the thermostat, sealing the pet entrance, and installing energy-efficient insulation. While these steps may sound small, they can add up to big savings in your monthly fuel bill.

Unfortunately, the Federal Government does not seem to exhibit a similar response. In short, I'm not sure who exactly is watching the meter. Answers to such questions as: "Who turns out the building lights at night; what incentives do agencies and their employees have for installing energy-efficient products or conserving energy; how do building managers know which heating systems and water pumps are most energy efficient?" are vague at best.

The legislation I am introducing today is aimed at addressing these persistent problems. It contains no magic or easy solutions, but rather it is a "nuts and bolts" bill that will, hopefully, reestablish some direction, accountability, and efficient energy management within agencies and across Government. It seeks to capture some of the potential cost-savings by requiring Federal agencies to identify their energy-savings potential and take the necessary steps to implement energy efficient and conservation measures.

The first title of the bill, the Government Energy Efficiency Act of 1991, establishes standards by which Federal agency spending on energy costs and energy efficiency and conservation will be monitored. The title also requires that the Federal Government, through the General Services Administration [GSA], identify energy-efficient products and services and promote their procurement. In addition, this section authorizes the placement of trained, certified energy engineers in the Government's most energy wasteful buildings. And it sets up an incentives program to reward Federal agencies and employees who implement conservation and efficiency improvements in buildings that result in substantial savings in taxpayer dollars.

In an effort to build on innovative energy management programs, the bill requires GSA to hold regional workshops for Federal, State, and local energy management officials. If an energy conservation program is working successfully on a local or State level, maybe we can incorporate it on the Federal level. My legislation also establishes a demonstration project in Federal buildings for federally funded energy conservation devices. Let's get these technologies out of the lab and into the public's view.

The second title of the legislation, the Federal Alternative Vehicle Procurement and Management Act of 1991,

sets criteria for the procurement of alternative fuel vehicles for the Federal fleet and provides increased funding for their purchase. To date, GSA has purchased 115 alternative fuel vehicles. While maintaining neutrality among alternative fuels, I feel this program should and must be expanded so we can reduce our reliance on foreign oil and move toward the use of fuels less harmful to the environment.

The Federal Government should provide leadership in meeting both clean air standards and the President's fleet provisions in his national energy strategy. If we are going to require that State, local, and commercial fleets meet these mandates, it is only fair that the Federal fleet comply as well.

My legislation attempts to address these and other problems concerning the Federal Government's use of energy. I hope my colleagues will support this effort, and I look forward to working with them to make effective Federal energy management a reality.

I ask unanimous consent that a copy of the bill and a summary of this legislation also be included following my remarks, and also a statement by Senator LIEBERMAN.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FEDERAL AGENCY ENERGY EFFICIENCY AND MANAGEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Government Energy Efficiency Act of 1991".

SEC. 102. FINDINGS.

The Congress finds that Federal energy efficiency efforts may—

- (1) reduce Federal expenditures;
- (2) reduce energy related environmental, health, and national security costs;
- (3) provide a basis for a national energy strategy;
- (4) demonstrate measures for use in the private sector; and
- (5) support markets for suppliers of efficient products and services.

SEC. 103. DEFINITIONS.

For purposes of this title—

- (1) the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, the United States Postal Service and any agency of the judicial branch of Government;
- (2) the term "facility energy manager" means the employee with responsibility for—
 - (A) the daily operations of a Federal facility which may include more than one building; and
 - (B) training employees concerning energy conservation and efficiency issues;
- (3) the term "Secretary" means the Secretary of Energy; and
- (4) the term "Task Force" means the Interagency Energy Management Task Force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257).

SEC. 104. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT.

(a) **GUIDELINES.**—The Office of Management and Budget, in cooperation with the Secretary, the General Services Administration, the United States Postal Service, and the Department of Defense, shall establish guidelines to be implemented by each Federal agency to ensure the most reliable, accurate, and practicable accounting of energy consumption costs for all buildings or facilities which the agency owns, leases, operates, or manages are used in reporting quarterly and annual energy cost figures as required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253). Each facility energy manager shall maintain energy performance records for review by the Inspector General.

(b) **CONTENTS OF GUIDELINES.**—Such guidelines shall include establishing a monitoring system to determine—

- (1) which facilities are the most costly to operate;
- (2) unusual or abnormal increases in energy consumption; and
- (3) the accuracy of utility charges for electric and gas consumption.

SEC. 105. FEDERAL ENERGY COST BUDGETING.

The President shall include in each budget submitted to the Congress under section 1105 of title 31, United States Code, a separate statement of the amount of appropriations requested, on an individual agency basis, for—

- (1) electric and other utility fuel costs to be incurred in operating and maintaining agency facilities; and
- (2) compliance with the provisions of part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), the Energy Policy and Conservation Act, and all applicable Executive orders, including Executive Orders No. 12003 and No. 12004.

SEC. 106. AUDIT SURVEY AND AGENCY ACCOUNTABILITY.

(a) **AUDIT SURVEY.**—No later than 90 days after the date of the enactment of this Act, the President's Council on Efficiency and Integrity shall conduct an audit survey to determine agency compliance with section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253). The survey shall—

- (1) identify agency compliance activities to meet the requirements of such section and any other matters relevant to implementing the goals of the National Energy Conservation Policy Act;
- (2) assess the accuracy and reliability of energy consumption and energy cost figures required under section 543 of the National Energy Conservation Policy Act; and
- (3) no later than 90 days after the date of the enactment of this Act, be submitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations in the House of Representatives.

(b) **INSPECTOR GENERAL REVIEW.**—Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with the National Energy Conservation Policy Act and other laws relating to energy use reduction. Such reviews shall not be inconsistent with performing the required duties of the Inspector General's office.

SEC. 107. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.

(a) **CONFERENCE WORKSHOPS.**—The General Services Administration, in consultation

with the Secretary and the Task Force, shall hold regular conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The General Services Administration shall work and consult with State administrative, general services, and energy offices to plan for particular regional conferences. The General Services Administration shall identify and notify other State, local, and county public officials who have responsibilities for energy management or may have an interest in such conferences.

(b) **FOCUS OF WORKSHOPS.**—Such workshops and conferences shall focus on—

- (1) effective coordination of energy management practices and policies, between Federal, State, and local governments, to maximize available intergovernmental resources;
- (2) the design, construction, maintenance, and retrofitting of public buildings to incorporate energy efficient techniques;
- (3) procurement and use of energy efficient products;
- (4) alternative fuel vehicle procurement, placement, and usage;
- (5) coordinated development with the private sector for the servicing, refueling, and maintenance of alternative fuel vehicles;
- (6) dissemination of information on innovative programs, technologies, and methods which have proven successful in government; and
- (7) technical assistance to design and incorporate effective energy management strategies.

SEC. 108. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.

(a) **PROCUREMENT.**—The General Services Administration shall undertake a program to include energy efficient products on the Federal Supply Schedule and the New Item Inventory Schedule.

(b) **IDENTIFICATION DEMONSTRATION PROGRAM.**—The General Services Administration shall implement a program to identify those energy efficient products which offer significant potential savings, with payback periods of less than 10 years, as calculated using methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254). The General Services Administration shall issue guidelines to encourage the acquisition and use of such products, and consider the feasibility of labeling and identifying such products on the Federal Supply Schedule and the New Item Inventory Schedule.

(c) **REPORT TO CONGRESS.**—No later than December 31, 1992, and on each December 31 thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives on the progress, status, activities, and results of the programs under subsection (b). The report shall include—

- (1) the number, types, and functions of each new product under subsection (a) added to the Federal Supply Schedule and the New Item Inventory Schedule during the previous fiscal year, and the name of the product manufacturer;
- (2) the number, types, and functions of each product identified under subsection (b), and efforts undertaken by the General Services Administration to encourage the acquisition and use of such products;
- (3) the actions taken by the General Services Administration to consider the labeling and identification of products under subsection (b), the barrier which inhibit feasible implementation of labeling and identifica-

tion of such products, and recommendations for legislative action, if necessary; and

(4) whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j-2), have been added to the Federal Supply Schedule or New Item Inventory Schedule.

SEC. 109. FEDERAL BUILDINGS FUND.

Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended—

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end thereof the following new paragraphs:

"(7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D). Amounts deposited in the Federal Buildings Fund under this subparagraph shall remain available until expended. No less than 50 percent of the amounts deposited in the Federal Buildings Fund under this subparagraph shall be used for energy efficiency improvements.

"(B) The Administrator may accept such goods or services provided in lieu of any rebates or other cash incentives relating to energy savings under subparagraph (A).

"(C) In the administration of any real property which the Administrator leases and pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor for the purpose of installing energy conserving equipment or devices.

"(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs—

"(i) amounts received and deposited in the Federal Buildings Fund under subparagraph (A);

"(ii) goods and services received under subparagraph (B); and

"(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available for energy management improvements.

"(E) The Administrator shall submit annual reports to the Congress on the energy management improvements made in the previous year and projections for energy savings in following years.

"(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (B). Amounts deposited in the Federal Buildings Fund under this subparagraph shall remain available until expended.

"(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which—

"(i) promote further source reduction and recycling programs; and

"(ii) encourage employees to participate in recycling programs by providing funding for child care, fitness, or other employee benefit programs.

"(C) The Administrator shall submit annual reports to the Congress on the recycling programs made in the previous year under this paragraph and projections for recycling activities in following years."

SEC. 110. FEDERAL ENERGY MANAGEMENT TRAINING.

(a) ENERGY MANAGEMENT TRAINING.—

(1) Each agency shall establish and maintain a program to ensure that facility energy managers are trained energy managers in accordance with the provisions of this section. Such program shall be managed—

(A) by the agency representative on the Task Force; or

(B) if an agency is not represented on the Task Force, by the designee of the head of the agency.

(2) Agencies shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study covering the areas described under paragraph (3) at—

(A) an accredited university or college;

(B) another private or public educational organization; or

(C) a professional association.

(3) A trained energy manager shall complete a course of study which encompasses the following areas:

(A) Federal codes and professional standards applicable to energy management and energy conservation;

(B) trends in fuel supply and pricing;

(C) fundamentals of energy, building, utility, process, and electrical system audits;

(D) energy accounting and analysis;

(E) application of life cycle costing;

(F) instrumentation for surveys and audits;

(G) energy effects of the heating, ventilation, and air conditioning system; and

(H) energy generation, distribution, and controls.

(b) REQUIREMENTS AT FEDERAL FACILITIES.—(1)(A) No later than September 30, 1992, each agency shall ensure that the facility energy manager for each facility described under subparagraph (B) is a trained energy manager under the criteria established under this section.

(B) This paragraph applies to the 5 facilities greater than 50,000 square feet, owned, leased, managed, or otherwise under the jurisdiction of an agency which have the highest energy usage and energy costs relative to all facilities greater than 50,000 square feet owned, leased, managed, or otherwise under the jurisdiction of such agency for fiscal year 1991.

(2)(A) No later than September 30, 1993, each agency shall ensure that the facility energy manager for each facility described under subparagraph (B) is a trained energy manager under the criteria established under this section.

(B) This paragraph applies to the 10 facilities greater than 50,000 square feet, owned, leased, managed, or otherwise under the jurisdiction of an agency which have the highest energy usage and energy costs relative to all facilities greater than 50,000 square feet owned, leased, managed, or otherwise under the jurisdiction of such agency for fiscal year 1992.

(3) For purposes of this subsection, the energy costs of facilities shall be compared by the ratio of the total costs of utilities for a facility during a fiscal year to the area of the facility.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$100,000 for fiscal year 1993 and \$100,000 for fiscal year 1994 to carry out the purpose of this section.

SEC. 111. FEDERAL FACILITY ENERGY MANAGER RECOGNITION AND INCENTIVES AWARD PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall, in consultation with the General Services

Administration, the Office of Personnel Management, and the Task Force, establish a financial bonus program to reward outstanding facility energy managers in Federal agencies, and other individuals making outstanding contributions toward the reduction of energy consumption or costs in Federal facilities.

(b) SELECTION CRITERIA.—No later than June 1, 1992, the Secretary shall issue procedures for implementing and conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors. Such criteria shall include—

(1) improved energy performance through increased energy efficiency;

(2) implementation of proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

(3) effective training programs for facility energy managers, operators, and maintenance personnel;

(4) employee awareness programs;

(5) success in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

(6) successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253); and

(7) success in the implementation of the guidelines under section 104 of this Act.

(c) REPORT.—Each year the Secretary shall publish and disseminate to Federal agencies and Congress a report to highlight and recognize the achievements of bonus award winners.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$100,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purposes of this section.

SEC. 112. IDENTIFICATION AND ATTAINMENT OF AGENCY ENERGY REDUCTION AND MANAGEMENT GOALS.

(a) REPORT.—No later than 1 year after the date of the enactment of this Act, the Office of Management and Budget and the Task Force, in consultation with the Secretary, shall submit to the Congress a report on the ability of Federal agencies to reach energy conservation goals required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(b) CONTENTS OF REPORT.—The report shall be based on a survey of energy usage, efficiency, and conservation techniques at a representative sample of facilities under each agency's management. The report shall include—

(1) a description of energy conservation and efficiency measures completed and planned for such representative facilities and an analysis of the extent to which comparable efforts may be made at similar facilities managed by the agency not included in the representative sample;

(2) an analysis of the technical feasibility of agencies to comply with section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253), with specific reference to barriers which may prevent the agency's ability to comply with the National Energy Conservation Policy Act and other energy management reduction goals;

(3) an analysis, based upon the representative sample—

(A) of the probability of each agency achieving—

(i) a reduction of energy use exceeding the 10 percent energy reduction goal under section 543(a)(2) of the National Energy Conservation Policy Act; and

(ii) a 20 percent reduction goal established under Executive Order No. _____; and

(B) which shall take into account the effects on agency energy consumption of the installation of cost effective energy efficient devices, products and techniques;

(4) an operational plan for the next fiscal year for each agency; and

(5) an estimate of the potential annual energy savings by agency through additional cost effective energy efficiency initiatives, which shall be defined as any equipment or materials whose installation and use will result in a 10-year or less cost recovery.

(c) EXEMPTION.—Facilities exempted under section 543(a)(2) of the National Energy Conservation Policy Act shall be exempted from the report requirement under this section.

SEC. 113. FEDERAL BUILDING ENERGY CONSUMPTION TARGETS.

No later than 2 years after the date of the enactment of this Act, the Secretary shall consider, in consultation with the Administrator of General Services and the Task Force, establishing energy consumption targets for January 1, 2000, for each Federal agency to reduce thermal unit expenditures per square foot in Federal buildings based upon the information provided in the report under section 112 of this Act.

SEC. 114. UTILITY INCENTIVE PROGRAMS.

(a) IN GENERAL.—Federal agencies are authorized and encouraged to participate in programs for energy conservation or the management of electricity demand conducted by gas or electric utilities and generally available to customers of such utilities.

(b) ACCEPTANCE OF FINANCIAL INCENTIVES.—Federal agencies may accept any financial incentive, generally available from any such utility, to adopt technologies and practices that the Secretary determines are cost effective for the Federal Government.

(c) NEGOTIATIONS.—Each Federal agency is encouraged to enter into negotiations with electric and gas utilities to design special demand management and conservation incentive programs to address the unique needs of facilities used by such agency.

(d) USE OF CERTAIN FUNDS.—Fifty percent of funds from such utility rebates for implementing energy conservation measures shall be maintained by the agency to be used for energy conservation and efficiency investments to include training for certified energy managers as provided under section 110 of this Act.

SEC. 115. COMMERCIAL ENERGY EFFICIENT TECHNOLOGIES IN FEDERAL BUILDINGS.

(a) ENERGY EFFICIENCY IN FEDERAL BUILDINGS.—Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end thereof the following new section:

"SEC. 550. DEMONSTRATION PROGRAM.

"(a) DEMONSTRATION PROGRAM.—No later than January 1, 1993, the Secretary, in cooperation with the Administrator of the General Services Administration, shall establish a demonstration program to install in Federal buildings commercial energy efficiency technologies developed by entities that have received or are receiving Federal financial assistance for energy conservation research and development.

"(b) EVALUATION.—The Secretary and the Administrator shall evaluate each type of energy efficiency technology so installed, including its technical feasibility, operational feasibility, and economic effectiveness. Installations of each technology shall include

a sufficient number of applications to produce statistically reliable evaluation results based on the technologies' application in various climates and building situations.

"(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section no more than \$2,000,000 for fiscal year 1993, \$3,000,000 for fiscal year 1994, and \$4,000,000 for fiscal year 1995."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the National Energy Conservation Policy Act is amended by inserting after the item relating to section 549 the following:

"Sec. 550. Demonstration program."

SEC. 116. NATIONAL RENEWABLE ENERGY AND ENERGY EFFICIENCY MANAGEMENT PLAN.

Section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12006(b); Public Law 101-218) is amended—

(1) in paragraph (1) by inserting "5-year" before "management plan";

(2) by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following:

"(5) For each fiscal year, the plan shall include an independent review of not less than one project for each program authorized under section 5 of this Act. In addition, the plan shall, for each of the programs authorized under section 5 of this Act—

"(A) provide a technical assessment of research needs, opportunities, and priorities;

"(B) contain detailed program and individual project information, including project objectives and milestones;

"(C) be based on a systematic review of individual projects by Department of Energy officials responsible for implementation of this Act;

"(D) use a uniform project prioritization methodology to permit the comparison of the costs and benefits of proposed projects;

"(E) include milestones that specifically set forth planned technology transfer activities for each project;

"(F) include estimated annual costs during the 5-year period as well as total estimated costs of the individual programs and projects; and

"(G) identify programs and projects for which funding levels have been changed from the prior year's plan."

SEC. 117. CONGRESSIONAL OFFICE BUILDING ENERGY IMPROVEMENT ASSESSMENT.

The Architect of the Capitol shall undertake a study to determine the feasibility and costs associated with compliance with all applicable Federal energy reduction requirements, taking into account particular needs with respect to the security and physical operation of the legislative branch of the Government.

TITLE II.—FEDERAL ALTERNATIVE VEHICLE PROCUREMENT AND MANAGEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Alternative Vehicle Procurement and Management Act of 1991".

SEC. 202. FINDINGS.

The Congress finds that—

(1) Federal Government procurement of new technologies often leads to rapid advances in those technologies, resulting in market introduction and overall economic gain for the United States public;

(2) the Federal Government is the largest buyer of the Nation's goods and services;

(3) procurement of motor vehicles equipped with air bags by the General Services Administration helped lead to the introduction

of such vehicles into the consumer marketplace;

(4) the Federal Government can play a lead role in the adoption of alternative fuel vehicles on a widespread commercial basis; and

(5) there are select market niches and geographic areas in the United States where each alternative fuel has applications.

SEC. 203. DEFINITIONS.

For the purpose of this Act, the term "alternative fuel vehicle" means any alcohol powered vehicle, alcohol dual-energy powered vehicle, hydrogen powered vehicle, hydrogen dual-energy vehicle, natural gas powered vehicle, natural gas dual-energy powered vehicle, liquefied petroleum gas powered vehicle, liquefied petroleum gas dual-energy powered vehicle, electric powered vehicle, and electric dual-energy powered vehicle.

SEC. 204. PROCUREMENT OF VEHICLES.

(a) PROCUREMENT.—The Administrator of General Services shall—

(1) ensure that the maximum practicable number of passenger automobiles and light trucks procured annually for use by Federal agencies shall be alternative fuel vehicles; and

(2) to the maximum extent practicable, obtain alternative fuel vehicles from original equipment manufacturers which are close in class and category to conventional fuel vehicles.

(c) CRITERIA.—In choosing both the procurement and placement of alternative fueled vehicles the General Services Administration shall use the criteria of—

(1) similar procurement or plans for procurement by State and local governments and other public and private institutions;

(2) currently available and planned refueling stations;

(3) performance capability of alternative fuel vehicles;

(4) available expertise and facilities for maintenance and repair; and

(5) the specific needs of agencies.

(d) PROPER USE OF VEHICLES.—The Administrator shall take due care to ensure that all alternative fuel vehicles are used in a proper manner in accordance with the manufacturer's standards and recommendations.

SEC. 205. REFUELING FACILITIES.

Any Federal agency that operates a facility which refuels alternative fuel vehicles shall make such facility available to the public for the refueling of alternative fuel vehicles, unless national security considerations prevent public access to such facilities. To the greatest extent practicable, the Administrator of General Services and Federal agencies shall give preference to the refueling of Federal alternative fuel vehicles at refueling facilities available to the public.

SEC. 206. VEHICLE COSTS.

Notwithstanding the provisions of section 211 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491), the Administrator shall not include the incremental costs of clean fuel vehicles in the amount to be reimbursed by Federal agencies. The incremental cost of alternative fuel vehicles over the cost of comparable conventional vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be required by the United States.

SEC. 207. RESALE.

The Administrator may resell the alternative fuel vehicles at any time after 3 years from the date of purchase.

SEC. 208. INFORMATION COLLECTION.

The Administrator shall, in consultation with the Secretary of Energy, take all actions necessary to ensure that the information and data collection requirements of any vehicle study do not deter or discourage driver use of alternative fuel vehicles.

SEC. 209. PROMOTION AND EDUCATION.

The Administrator shall institute a program to promote and educate Federal agencies and employees on alternative fuel vehicles. The Administrator shall provide and disseminate information on—

- (1) location of refueling and maintenance facilities;
- (2) vehicle range and performance capabilities;
- (3) State, local, and commercial alternative fuel vehicle programs; and
- (4) awards and incentives program.

SEC. 210. INTERGOVERNMENTAL COORDINATION.

The Administrator shall identify other Federal, State, and local efforts to promote and use alternative fuels and alternative fuel vehicles. To the maximum extent practicable, the Administrator shall coordinate with Federal, State, and local governments in the areas of vehicle procurement, location, refueling and maintenance.

SEC. 211. EXEMPTIONS.

The Department of Defense shall be exempt from requirements of this title, if the Secretary of Defense certifies to the Administrator and the Congress that such an exemption is necessary for national security.

SEC. 212. AGENCY INCENTIVES PROGRAM.

(a) **REDUCTION IN RATES.**—To encourage and promote use of alternative fuel vehicles in agencies, the Administrator may offer a 5 percent reduction in fees charged to agencies for the use of alternative fuel vehicles below the fees charged for use of comparable conventional powered vehicles.

(b) **USE IN POOLING ARRANGEMENTS.**—Notwithstanding the provisions of section 1344(a) of title 31, United States Code, Federal employees may operate alternative fuel vehicles for the use of pooling arrangements to or from their place of employment. Special consideration shall also be given to meeting vehicle refueling and maintenance needs if such services are not convenient to the location of the place of employment.

SEC. 213. RECOGNITION AND INCENTIVE AWARDS PROGRAM.

(a) **AWARDS PROGRAM.**—The Administrator shall establish an annual cash awards program to recognize the General Services Administration employees and other Federal agency employees who show the strongest commitment to a cleaner environment and energy secure United States through the use of alternative fuels and fuel conservation in Government vehicles.

(b) **CRITERIA FOR GENERAL SERVICES ADMINISTRATION EMPLOYEES.**—The Administrator shall provide annual cash awards of no more than \$2,000 each to three General Services Administration employees who—

- (1) best demonstrate their commitment to the success of the alternative fuels vehicle program by—
 - (A) enthusiastic promotion of alternative fuel vehicles to both General Services Administration and other Federal agencies;
 - (B) proper vehicle care and maintenance;
 - (C) coordination with Federal, State, and local efforts; and
 - (D) entering into innovative alternative fuel vehicle procurement, refueling and maintenance arrangements with commercial entities; and
- (2) best demonstrate their commitment to fuel efficiency in Government vehicle use

through the promotion of such measures as carpooling, ride-sharing, regular maintenance and other conservation and awareness measures.

(c) **LIMITATION IN RECEIVING AN AWARD.**—The 3 awards under subsection (b) shall be awarded to 3 different employees each year. No employee may win an award in more than 2 successive years.

(d) **AWARD TO REGIONAL GENERAL SERVICES ADMINISTRATION EMPLOYEES.**—(1) In each United States region where the General Services Administration operates alternative fuel vehicles, the Administrator shall offer \$1,000 cash awards to the regional General Services Administration employees who meet the criteria under subsection (b).

(2) No employee who receives an award under subsection (b) may receive an award under this subsection in any year. No more than 2 awards shall be awarded under this subsection in each region in any year.

(e) **AWARD TO FEDERAL AGENCY EMPLOYEES.**—In each region where the General Services Administration operates alternative fuel vehicles, the Administrator shall provide an annual \$2,000 cash award to the Federal employee (other than an employee of the General Services Administration) who demonstrates the greatest interest and commitment to alternative fuel vehicles by—

- (1) making regular requests for alternative fuel vehicles for agency use;
- (2) maintaining a high number of alternative fuel vehicles used relative to conventional fuel vehicles used;
- (3) promoting alternative fuel vehicle use by agency personnel; and
- (4) demonstrating care and attention to alternative fuel vehicles.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$25,000 in fiscal year 1992, \$35,000 in fiscal year 1993, and \$45,000 in fiscal year 1994 to carry out the purposes of this section.

SEC. 214. REPORTS.

No later than 1 year after the date of the enactment of this Act, and on each January 1, thereafter, the Administrator shall report to the Congress on the General Services Administration's alternative fuel vehicle program. The report shall contain information on—

- (1) the number and type of alternative fuel vehicles procured;
- (2) the location of alternative fuel vehicles;
- (3) award recipients under this title;
- (4) the number of alternative fuel vehicles used by each Federal agency;
- (5) coordination among Federal, State, and local governments;
- (6) arrangements entered into with commercial entities for the purposes of refueling and maintenance;
- (7) future alternative fuel vehicle procurement and placement plans; and
- (8) the cost of alternative fuel vehicle purchase, refueling, maintenance, and resale.

SEC. 215. AUTHORIZATION OF APPROPRIATIONS.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$12,000,000 for fiscal year 1992, \$14,000,000 for fiscal year 1993, and \$14,000,000 for fiscal year 1994 to carry out the purposes of this title, other than section 213.

(b) **DEPOSIT OF APPROPRIATIONS.**—Appropriations provided under subsection (a) shall be deposited as capital of the General Supply Fund established in section 109 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756) and shall remain available until expended.

SUMMARY OF PROPOSED GLENN FEDERAL ENERGY MANAGEMENT BILL**TITLE I—FEDERAL AGENCY ENERGY EFFICIENCY AND MANAGEMENT***Federal management and oversight of energy use*

To increase awareness, establish accountability and provide direction in the management of Federal energy usage and consumption.

Requires OMB to establish guidelines for ensuring reliable accounting of federal building energy consumption charges. Guidelines shall enable agencies to: (1) determine which buildings are most costly to operate; (2) detect abnormal utility bill increases; and (3) ensure the accuracy of utility charges;

Requires the President's budget to identify amounts requested, by agency, for energy operating costs and energy conservation and efficiency expenditures;

Authorizes an audit survey of agencies' energy use to determine agency compliance with statutory energy conservation mandates;

Requires OMB Report to Congress on the ability of agencies to meet, or exceed, current energy reduction goals;

Encourages GSA to undertake energy conservation improvements by participating in utility energy rebate programs, and mandates that money saved be deposited in GSA Federal Building Fund; Encourages other agencies to participate in energy reduction and conservation incentive plans.

Intergovernmental energy management planning and coordination

To build on innovative governmental energy management programs, share & disseminate current information, and better coordinate available resources.

Requires GSA to hold regional workshops for State & local officials to coordinate energy management and conservation planning. Workshops to focus on: energy efficient building technologies; procurement of energy-saving products; alternative vehicle procurement & placement; coordinated development with private sector for servicing, refueling, and placement of alternative fuel vehicles; and, information and technical assistance on innovative and effective energy management strategies.

Federal procurement of energy efficient products

Make the Federal government a leader in acquiring and using energy efficient products.

Mandates GSA to include energy efficient products on the Federal Supply Schedule and New Item Inventory Schedule, and GSA/OFPP study on barriers hindering timely acquisition;

Establishes a GSA demonstration program to identify those products with substantial energy-savings potential and encourage their use by federal agencies, with consideration given to labeling products on the Supply Schedule;

Creates a DOE demonstration program to install commercial energy efficient technologies developed with federal assistance (R&D laboratories) in government buildings—3-year, \$9 million authorization;

Requires DOE to review renewable alternative energy projects authorized under the Renewable Energy and Energy Efficiency Technology Competitiveness Act (PL 101-218) in order to improve the management and potential for commercialization of these projects.

Federal building manager training and incentives

Establishes trained energy managers in Federal agencies and provides cash incentives for Federal employees making outstanding contributions toward the reduction of energy consumption or costs in Federal facilities.

Requires agencies to designate employees, who have completed courses in energy management and engineering, as trained energy managers. Such employees must complete courses in energy management and engineering. By 9/30/92, each agency shall have trained energy managers at the 5 facilities (greater than 50,000 square feet) which have the highest energy usage and cost—10 facilities by 9/30/93.

Establishes a Federal Facility Manager Recognition and Incentives Award for those federal employees who have undertaken energy conservation and efficiency improvements resulting in significantly decreased facility energy consumption and cost.

TITLE II—FEDERAL ALTERNATIVE VEHICLE PROCUREMENT AND MANAGEMENT

Authorizes \$40 million (FY92-FY94) for GSA to expand its procurement of alternative fuel vehicles for the Federal fleet;

Establishes fuel-neutral criteria for GSA purchase and placement of alternative fuel vehicles, defined as methanol, ethanol, liquefied petroleum gas, natural gas, electric, and hydrogen-powered cars, vans and light trucks;

Requires GSA to closely plan and coordinate with commercial fleet operators and state and local governments in the purchase and placement of the vehicles;

Establishes an awards/incentives program for the federal agencies and employees who best demonstrate their commitment to using and promoting alternative fuel vehicles;

Emphasizes GSA promotion and education of alternative fuel vehicles to other customer federal agencies.

• **Mr. LIEBERMAN.** Mr. President, I am pleased to be an original cosponsor of the Government Energy Efficiency Act of 1991. I thank Senator GLENN for his leadership in proposing this much needed piece of legislation.

The Federal Government is the largest consumer of energy in the United States, using some 4 billion dollars' worth of electricity every year. It is time that the Federal Government put its house in order, and joins the energy efficiency and conservation movement. The Federal Government can save the taxpayer almost \$1 billion if it reduces its consumption by 25 percent. Senator GLENN's bill is a major step in the direction of saving the taxpayer that \$1 billion dollars.

I have long been a supporter of Federal energy management. This year I have introduced legislation, with Senator BURNS, that; mandates a demonstration of fuel cells in Federal buildings, requires that Federal agencies include life cycle costs in determining the purchase of energy efficient products, directs EPA to develop a report on the inclusion of environmental externalities in costs formulations, and provides for the installation of energy efficient and conservation technologies.

Senator GLENN's bill is an outstanding step forward. I encourage the Senate to move quickly in considering this legislation. The taxpayer should not be subjected to 1 more day of Federal agency waste of electricity. The sooner this piece of legislation is adopted, the sooner the taxpayer begins saving money.

Mr. President, I look forward to the day when we point to the Federal Government as a model of energy use for others to follow. This piece of legislation is an important step in making that a reality. Again, I thank the chairman for his leadership and look forward to working with him to make the Federal Government energy efficient. •

By Mr. ADAMS (for himself and Mr. GORTON):

S. 1041. A bill to designate the Washington Outer Coast National Marine Sanctuary, and for other purposes; to the Committee on Commerce, Science, and Transportation.

WASHINGTON OUTER COAST NATIONAL MARINE SANCTUARY ACT

• **Mr. ADAMS.** Mr. President, today, along with my colleague from Washington State, Senator GORTON, I am introducing the Washington Outer Coast National Marine Sanctuary Act of 1991.

Three years ago, I placed a provision into the reauthorization of the Marine Protection, Research and Sanctuaries Act to designate the Washington State coast as a marine sanctuary. This provision was designed to protect our fisheries and to preserve our shores from unwise development.

At that time, we directed NOAA to begin the designation process and to solicit input from the citizens of Washington State. NOAA and a number of citizen's groups have done an excellent job of holding meetings and workshops throughout the State to develop a management plan for this area. But now, almost a full year after the deadline, the Office of Management and Budget refuses to move forward and release the draft environmental impact statement. This administration has ignored the wishes of our people, interfered in our congressional mandate, and held our coast hostage.

The President says he supports marine sanctuaries, yet he refuses to prohibit oil and gas drilling off our coast. I'm here to tell you; oil and water don't mix. Since we first passed our sanctuary bill, we've seen barges sink and pipelines leak. The legislation we are introducing today, the Washington Outer Coast National Marine Sanctuary Act of 1991, will create a true marine sanctuary off our shore and finish the job we started 3 years ago.

I ask unanimous consent that a copy of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Washington Outer Coast National Marine Sanctuary Act of 1991".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Congress formally recognized the national significance of the marine environment of the Washington Outer Coast when it directed the Department of Commerce to designate this area as a national marine sanctuary by not later than June 30, 1990.

(2) Little progress has been made toward the designation of the Washington Outer Coast site as a national marine sanctuary and continued delays appear to be a result of efforts to preserve the right for oil and gas development within the Sanctuary boundaries.

(3) Designation of national marine sanctuaries by the Secretary of Commerce under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) remains an appropriate mechanism to implement the national marine sanctuary program.

(4) Where the Secretary of Commerce is unable or unwilling to implement statutory directives to designate a National Marine Sanctuary, the Congress has the responsibility to act for that purpose.

(5) Because of delay in designating the Washington Outer Coast National Marine Sanctuary, the Congress should act to protect this nationally significant area under domestic law.

SEC. 3. POLICY AND PURPOSE.

(a) **POLICY.**—It is the policy of the United States to protect the living marine and other resources of the marine environment of the Pacific Ocean adjacent to the coast of the State of Washington.

(b) **PURPOSE.**—The purpose of this Act is to protect the living marine and other resources of the marine environment of the Pacific Ocean adjacent to the State of Washington, by—

(1) establishing a Washington Outer Coast National Marine Sanctuary,

(2) defining minimum boundaries for the Sanctuary,

(3) prohibiting oil and gas activities within the Sanctuary, and

(4) requiring development of a comprehensive management plan for the Sanctuary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

SEC. 4. DESIGNATION OF SANCTUARY.

(a) **DESIGNATION.**—The area described in subsection (b) is designated as the "Washington Outer Coast National Marine Sanctuary" (hereinafter in this Act referred to as the "Sanctuary"), which shall be a national marine sanctuary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.). The Sanctuary shall be managed and regulations enforced under all applicable provisions of title III of the Marine Protection, Research, and Sanctuaries Act of 1972 as if the Sanctuary had been designated under that Act.

(b) **AREA INCLUDED.**—

(1) **IN GENERAL.**—Subject to subsections (c) and (d), the Sanctuary shall include, at a minimum, all submerged lands and waters (including living marine and other resources

within and on those lands and waters) adjacent to the coast of the State of Washington from the mean high water mark to the boundary described under paragraph (2), except that in areas adjacent to Indian reservations the Sanctuary extends from the mean lower low water line to that boundary.

(2) **BOUNDARY DESCRIBED.**—The boundary referred to in paragraph (1) is the line that extends from Koiitah Point due north to the border between Canada and the United States, then follows the border seaward to the 100 fathom isobath, then runs southward along the 100 fathom isobath to a point due west of the mouth of the Copalis River, cutting across the heads of Nitinat, Juan de Fuca, and Quinault canyons, then proceeds eastward along latitude 47° 08' N to the mean high water line, so as to include in the Sanctuary the Copalis National Wildlife Refuge.

(c) **BOUNDARY EXTENSIONS.**—If during development of the comprehensive management plan required under section 5, the Secretary of Commerce determines that additional areas should be included in the Sanctuary, the Secretary may include those areas in the Sanctuary and shall describe the areas so included in the final designation document published under section 5. The Secretary shall ensure that any boundary extensions made pursuant to this subsection shall be reflected on the charts referred to in subsection (e).

(d) **PUBLICATION OF SANCTUARY BOUNDARIES.**—The Sanctuary shall be generally identified and depicted on National Oceanic and Atmospheric Administration charts WOCNMS 1 and 2, which the Secretary shall maintain on file and available for public examination during regular business hours at the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration and the Northwest Regional Office of the Administration in Seattle, Washington.

SEC. 5. FINAL DESIGNATION DOCUMENT AND REGULATIONS.

(a) **PREPARATION.**—The Secretary of Commerce, in consultation with appropriate Federal, State, and local government authorities, and after providing for adequate public comment, shall—

(1) prepare a final designation document for the Sanctuary, including a comprehensive management plan; and

(2) implementing regulations to achieve the policy and purpose of this Act and of title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

In developing the plan and regulations, the Secretary of Commerce shall follow the procedures specified in sections 303 and 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433 and 1434).

(b) **PUBLICATION.**—Not later than 6 months after the date of the enactment of this Act, the Secretary of Commerce shall complete and publish the final designation document and regulations developed under this section.

SEC. 6. AREAS WITHIN STATE OF WASHINGTON.

(a) **DESIGNATION.**—The designation in section 4(a) shall not take effect for an area located within the waters of the State of Washington if, no later than 45 days after the date of the enactment of this Act, the Governor of the State of Washington objects in writing to the Secretary of Commerce.

(c) **FINAL DESIGNATION DOCUMENT, PLAN, AND REGULATIONS.**—A provision of the final designation document (including the comprehensive management plan) or a regulation published under section 5 shall not take effect for an area of the Sanctuary located in the waters of the State of Washington if the

Governor of the State of Washington objects in writing to the Secretary of Commerce no later than 45 days after the date of that publication.

SEC. 7. PROHIBITION ON HYDROCARBON AND MINERAL ACTIVITIES.

No leasing, exploration, development, or production of minerals or hydrocarbons shall be permitted within the Sanctuary.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 313(2)(D) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444(2)(D)) is amended by striking "\$3,250,000" and inserting "\$5,250,000".

By Mr. CRANSTON (for himself, Mr. WOFFORD, Mr. PELL, Mr. SIMON, Mr. DECONCINI, Mr. ROCKEFELLER, and Mr. BOREN):

S. 1042. A bill to amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal years 1992 and 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes; to the Committee on Foreign Relations.

PEACE CORPS ACT AMENDMENTS

• Mr. CRANSTON. Mr. President, today I am introducing S. 1042, legislation to authorize appropriations for the Peace Corps through fiscal years 1992 and 1993—at levels that would enable the Peace Corps to continue making progress toward achieving the congressionally mandated goal of a Peace Corps volunteer strength of 10,000, as enacted in section 1102 of the International Security and Development Cooperation Act of 1985, Public Law 99-83. The bill would also establish a foreign currency fluctuations account from which the Peace Corps could draw when the costs of its operations increase as a result of a decline in the value of the U.S. dollar and correct a problem relating to the crediting of Peace Corps volunteer service in the computation of Federal retirement benefits. In addition the bill would provide for reviews of Peace Corps' health-care services for volunteers and the coordination between the Department of Labor and the Peace Corps regarding benefits provided to former volunteers who are disabled during service.

Joining me in introducing this measure are Senator WOFFORD, Senator PELL, the chairman of the Foreign Relations Committee, as well as committee member, Senator SIMON, and Senators DECONCINI, ROCKEFELLER, and BOREN, all strong Peace Corps supporters. Senator WOFFORD, as my colleagues are aware, was sworn in as a Member of the Senate earlier today and, as a special assistant to President Kennedy, was a principal architect of the Peace Corps. It is very fitting that this bill is the first one he is cosponsoring.

BACKGROUND

Mr. President, the Peace Corps celebrates its 30th anniversary this year. In March, I joined with the other members of the Foreign Relations Committee in introducing a resolution to

honor Peace Corps volunteers and the Peace Corps on this anniversary. Before describing the specific provisions of our bill, I will comment on some of the significant issues and principles that have shaped the Peace Corps over these last 30 years and are worth highlighting at this juncture.

For three decades now, Peace Corps volunteers have promoted international peace and friendship by helping men, women, and children in many nations overcome the often harsh circumstances of their lives. Over 138,000 American men and women have served as volunteers in more than 100 nations around the world. Of this total, I am terribly proud that 17,673 Californians have served as volunteers, more than from any other States.

In 1989 and 1990, it was truly encouraging to those of us who have been advocates for the Peace Corps over the years that among the first requests from the infant democracies in Eastern Europe were those for Peace Corps volunteers. I have supported the Peace Corps entering those countries because I believe that the host country requests are genuine, that Peace Corps volunteers can furnish assistance that is badly needed by those countries while serving as vital personal links between our cultures and our peoples, and that these Peace Corps programs will contribute to the three goals of the Peace Corps Act—providing assistance, increasing other peoples' understanding of Americans, and increasing Americans' understanding of the people where volunteers serve. I believe those principles should guide the Peace Corps' entry into any country, and that both Congress and the Peace Corps leadership should avoid the temptation to exploit the goodwill that individual volunteers have built over the past 30 years by using the Peace Corps and its dedicated volunteers in attempts to further either foreign policy or political goals.

Importance of the Peace Corps' independence: Mr. President, I believe it is enormously important that we ensure that those aspects of the Peace Corps that have made it so valuable are maintained during these times of growth for the agency. In that regard, I have sought to ensure that the Peace Corps remains distinct from the various foreign policy endeavors that this Nation pursues in Eastern Europe and elsewhere in the world. This distinction is one that goes back to the origins of the agency and, I believe, has been largely responsible for the successes it has realized. Because of my strong feeling regarding this matter, I sponsored the legislation enacted in 1981 which made the Peace Corps an independent agency of our Government.

I address this issue today because of many concerns that have been expressed to me in connection with the

Peace Corps' entry into East European countries, which has struck some as a departure from the Peace Corps' tradition of working in countries that are perhaps less far along in developing their industrial and financial bases and a move toward linking Peace Corps programs with U.S. foreign policy activities.

The attempt to maintain a basic separation between the Peace Corps and U.S. foreign policy initiatives—such as the initiatives that underlay the State Department's and the Agency for International Development's activities—requires keen sensitivity and close examination of how Peace Corps programs are administered and how the Peace Corps' efforts are presented to the public, both here and abroad. The issues are subtle yet vitally important ones and are sometimes blurred by the fact that our Government conducts many activities overseas and activities such as the Peace Corps' and those of AID may appear at first blush to be quite similar.

Over the past 2 years, I have discussed this issue with Director Coverdell and exchanged several letters with him on the subject. He has indicated that he is in complete agreement with then-Secretary of State Dean Rusk's 1961 statement that "to make the Peace Corps an instrument of foreign policy is to deprive it of its contribution to foreign policy," which is probably the most succinct statement summing up the distinctive nature of the Peace Corps' mission.

Apolitical nature of Peace Corps service: The underlying reason that due regard must be paid to this separate nature of the Peace Corps is to avoid giving the inaccurate impression to host countries and other countries of the world that the Peace Corps and individual volunteers who serve are agents of American foreign policy. Such a mistaken impression—whether created by Congress, in legislative or other characterizations of Peace Corps programs, or by Peace Corps officials, in their pronouncements and the manner in which they implement programs—could damage the Peace Corps' efforts and potential for success in East European countries as well as elsewhere in the world.

In keeping with the basic mission of the Peace Corps, volunteers are required to maintain an apolitical stance during their service. Alone in foreign countries where American policies are sometimes suspect and often criticized, volunteers must learn to walk the fine lines between sharing views and proselytizing, between acting as they are accustomed and crashing through cultural taboos, and between pride in our way of life and acceptance of the values of their host countries. We required Peace Corps to manifest their appreciation of these kinds of subtleties of living in foreign cultures and to maintain

strict adherence to their nonpolitical role.

I believe very strongly that those of us here in Washington involved in Peace Corps matters must exhibit the same sensitivities to the unique aspects of the Peace Corps. Since my earliest involvement with the Peace Corps in Africa in 1965, I have opposed any efforts to use the Peace Corps as a partisan tool in either the domestic or international arena, and I will continue to do so.

The Peace Corps embodies the simple and noble concept of assisting on a personal basis the people of countries which seek volunteers' assistance. Each returning volunteer brings back a vivid understanding of life in a foreign country and a new perspective on life in this country, and these individuals are a true asset to our Nation and its participation in the international community. Over the past 30 years, Americans have been drawn to serve in the Peace Corps for the many lofty ideals that the agency represents, and the accomplishments of each class of volunteers serve to give those ideals deeper meaning.

As the Peace Corps enters into new countries and initiates new programs, it must remain true to its origins and continue to fulfill its special role in fostering international peace and understanding on a people-to-people basis. The Peace Corps is a small yet very bright symbol of our Nation's concern about and commitment to international development and cross-cultural understanding. It would be most unfortunate if this symbol were in any way tarnished or used to promote interests other than those embodied in the Peace Corps Act and represented by 30 years of work by the volunteers.

Peace Corps growth: The unique work of Peace Corps volunteers has been in demand more than ever in the last 2 years. Peace Corps programs were opened in 11 countries in 1990 and 14 countries in 1991. Due to dramatic changes in Eastern Europe—an area of the world to which the Peace Corps has not previously been invited—the Peace Corps has opened programs in Hungary, Poland, Czechoslovakia, Romania, and Bulgaria. These assignments highlight the special value of Peace Corps volunteers as not only teachers but as cultural and personal links between very different worlds. Peace Corps' entry into East Europe and other new countries has been a most exciting development.

Several countries, including Laos, Mongolia, and Namibia, are hosting their first contingent of volunteers, and others, including Nicaragua, Chile, and Nigeria, are welcoming the Peace Corps for a second time.

It is remarkable and a testament to the value of the agency that it has thrived and prospered during often tumultuous times—times of war and of

peace, of social upheaval and of consensus. The success of a person-to-person, volunteer effort is always hard to measure, but I believe the number of new countries requesting volunteers, the growing number of volunteer applications, and the ongoing respect of the American public for the institution are signs of its immeasurable value.

Since 1961, volunteers have developed, adapted, and applied new techniques and appropriate technologies to a myriad of problems. From tropical gardening in the Marshall Islands to providing rehabilitative services to disabled children in Morocco and improving fisheries techniques in Honduras, volunteers have not only contributed greatly to the field of development efforts of Peace Corps countries, but have also taught, learned, and shared valuable lessons with respect to national and personal values.

I have been an enthusiastic supporter of the Peace Corps from my first involvement in the mid-1960's as a Peace Corps evaluator in Ghana. Since then, in my 22 years in Congress, I have led many legislative efforts to strengthen Peace Corps programming and funding, including authorizing legislation enacted in section 1102 of the International Security and Development Cooperation Act of 1985, Public Law 99-83, which established as a goal of the Peace Corps a volunteer strength of 10,000 volunteers.

Mr. President, the legislation we are introducing today would provide appropriate authorization levels for fiscal years 1992 and 1993 and authorize the use of appropriated funds for each year through the following fiscal year so as to enable the Peace Corps to maintain steady growth toward 10,000 volunteers and improve its ability to plan for new country entries and program expansions. I will now outline the specific provisions contained in the legislation.

AUTHORIZATION OF APPROPRIATIONS

Mr. President, section 2 of our bill would amend section 3 of the Peace Corps Act to authorize a fiscal year 1992 appropriation of \$207.5 million, which would be available through September 30, 1993, and a fiscal year 1993 appropriation of \$243 million, which would be available through September 30, 1994. These amounts are based on Director Coverdell's plan, which I will discuss in a moment, to achieve the 10,000-volunteer goal and would allow the Peace Corps to continue to fund its current programs, as well as enhance the preservice training provided to volunteers and respond to new country requests for volunteers.

As the author of the 10,000-volunteer goal, I have closely monitored the Peace Corps' progress toward achieving it. Following the establishment of the goal, I, along with the leadership and several members of the Senate Foreign Relations Committee and the House Foreign Affairs Committee, requested

that then-Director Loret Ruppe develop a phased, realistic, program-matically appropriate plan to meet the goal. Former Director Ruppe's original plan, submitted on March 5, 1986, provided a blueprint for steady Peace Corps growth through the early 1990's and proved to be a very useful document in the Senate Foreign Relations and Appropriations Committees' consideration of the Peace Corps' funding levels throughout the second half of the 1980's.

However, because the original plan did not take into account certain costs, most notably, the effects of foreign currency fluctuations, Federal Employee Compensation Act payments, and certain uncontrollable expenses, Senators PELL, DODD, and I wrote to Director Ruppe in 1987 asking for a revised plan for reaching the 10,000 volunteer goal. That plan, submitted on April 17, 1987, provided new estimates and projected steady growth through fiscal year 1992 at which time a volunteer force of 10,000 would be realized if the plan were followed. Unfortunately, in fiscal years 1989 and 1990, the amounts contained in the final Peace Corps appropriation, when combined with the effects of sequestration, made the actual funding available for the Peace Corps \$3.5 and \$7.2 million, respectively, short of the levels called for in the original plan. Last year, because of those shortfalls and additional constraints resulting from the effects of domestic inflation and foreign currency fluctuations which prevented the Peace Corps from reaching target program levels, we used the levels called for in the 1987 revised plan as proposed authorization levels for fiscal years 1991 and 1992. The current fiscal year's appropriation of \$186 million, despite being \$5 million over what the administration requested, is \$11.8 million less than the revised plan called for.

Mr. President, because such constraints have resulted in Peace Corps' appropriations not meeting the target levels of the 1987 revised plan, the planned growth has also not occurred. In addition, events since 1987, including the expansion of the Peace Corps into many new countries, which has required an extensive rebuilding of the Peace Corps' infrastructure, have affected the Peace Corps' costs of operation.

In light of the changes that have occurred since 1987, Senators DODD, PELL, and I recently wrote to Director Paul Coverdell to note our concern that the 1987 plan's projections and estimates were no longer accurately reflecting the Peace Corps' actual needs and to request a revised plan for achieving the 10,000-volunteer goal which considered the many changed circumstances in the agency's commitments and programs. On April 17, 1991, Director Coverdell responded to our letter with a revised plan.

Director Coverdell's plan to achieve 10,000 volunteers provides for steadily increasing numbers of volunteers through fiscal year 1996. The plan assumes costs of \$30,000 per volunteer in fiscal year 1991 dollars. This amount includes overhead and infrastructure costs—essentially the total costs to the agency. The proposed fiscal year 1992 and fiscal year 1993 authorization levels were calculated by multiplying the number of volunteers called for in Director Coverdell's plan for each year by the \$30,000-per-volunteer amount, including a 4-percent inflation rate for fiscal year 1992 and a 3.8-percent rate for fiscal year 1993, as the Congressional Budget Office advises is appropriate.

Mr. President, I ask unanimous consent that the April 17, 1991, letter from Director Coverdell setting forth the revised plan and our letter of March 21, 1991, requesting the revision be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, March 21, 1991.

Hon. PAUL COVERDELL,
Director, Peace Corps,
Washington, DC.

DEAR PAUL: We are writing to inquire as to Peace Corps' plans to achieve the Congressionally mandated goal of a Peace Corps Volunteer force of 10,000 individuals, which was enacted in section 1102 of Public Law 99-83.

After the enactment of the 10,000-volunteer goal in 1985, your predecessor, Loret Ruppe, provided at our request a detailed plan for the necessary growth to achieve that goal in a phased and orderly manner. In 1987, we asked her for a revised plan in light of additional costs associated with foreign currency fluctuations, increases in fixed costs, staff salary increases, and FERS costs. On April 17, 1987, she submitted the revised plan, which called for sustained growth through fiscal year 1992, at which time the Peace Corps would, if the plan were followed, achieve a volunteer corps of 10,000 persons.

The 1986 plan and the 1987 revision have proven extremely useful in our efforts to secure funding to facilitate the growth toward 10,000 volunteers. However, because the revised plan is now four years old, we are concerned that its projections may not reflect accurately the Peace Corps' actual needs to sustain the necessary stable growth to meet that goal. Among the matters that may not have been considered when the 1987 plan was formulated are the rapid expansion into many new countries, which has necessitated increased overseas country staff positions and domestic staff support positions, and increased travel costs, and the number of countries the Peace Corps has had to leave because of concerns for volunteers' safety—all of which would appear to have a direct effect on the Peace Corps' cost per volunteer.

As we renew our efforts on behalf of the Peace Corps in the new Congress, we would appreciate your providing us with your plan to achieve the mandated 10,000-volunteer level, taking into account the issues noted above and any others which may affect the Peace Corps' cost per volunteer, as well as the experiences over the past four years under the revised plan.

We look forward to your response and to working with you on strengthening and improving the Peace Corps.

With warm regards,
Cordially,

CLAIBORNE PELL,
Chairman.
CHRISTOPHER J. DODD,
Chairman, Sub-
committee Western
Hemisphere Peace
Corps Affairs.
ALAN CRANSTON,
Chairman, Sub-
committee on East
Asian and Pacific
Affairs.

THE DIRECTOR OF THE
UNITED STATES PEACE CORPS,
Washington, DC, April 17, 1991.

Hon. ALAN CRANSTON,
Committee on Foreign Relations, Chairman,
Subcommittee on East Asian and Pacific Af-
fairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your correspondence requesting a revised plan to meet the 10,000-Volunteer goal enacted in section 1102 of Public Law 99-83.

As you mentioned in your letter, the plan by the Peace Corps in response to Public Law 99-83 set forth in 1985, and revised in 1987, has not resulted in the progress anticipated. The appropriation levels necessary to reach levels set forth in the 1985 and the 1987 plans were not achieved due to overall budgetary constraints.

Shortly after my confirmation as Director, I had conversations with you and other members of the Senate Foreign Relations Committee in which you expressed your support for the 10,000-Volunteer goal. As I mentioned at that time, I, too, enthusiastically supported the growth of the volunteer levels leading to the achievement of the 10,000-Volunteer goal. New country entries greatly facilitated substantial increases in Volunteer levels. It is essential to develop a strong infrastructure, both internally and externally, which is capable of supporting an increased number of Volunteers. Volunteer strength should be increased through appropriate programming and by providing for optimum levels of Volunteers in each country. As you know, Peace Corps programs are driven by the needs of the host country. Experience tells us that inappropriately high numbers of Volunteers assigned in countries can lead to job dissatisfaction, weak projects, and early termination of Volunteer service.

The rebuilding of the Peace Corps infrastructure requires three distinct thrusts all of which are now being actively pursued: (1) the strengthening of Volunteer training, preparation and support services, (2) the establishment of management procedures to plan, administer, and evaluate program components, and (3) the expansion of the number of quality Volunteer assignments through new country entries.

Over the three fiscal years beginning in FY 1990, I have directed that an additional \$9 million be used for the training of Volunteers in language and culture. Medical support services are currently being upgraded and other Volunteer services have been strengthened—\$7 million has been earmarked for a long overdue program to upgrade the vehicles used by Peace Corps personnel in the field.

The establishment of new management procedures is also vital to the development of the quality as well as the quantity of Peace Corps programs and number of Volun-

teers. The Integrated Planning and Budgeting System (IPBS) and the Programming and Training System (PATS) which we have initiated have enabled us to identify needs, prepare a specific assignment description for each Volunteer, and evaluate the success of very diverse programs in 80 countries. We are now on a course in which Volunteers can be added to countries in all parts of the world, knowing they will have meaningful assignments, be well-trained, and have the necessary support and preparation to safely carry out the goals of Peace Corps.

Fiscal years 1990 through 1992 will highlight the largest number of new country entries since the 1960's. This growth is essential in building opportunities for Peace Corps Volunteer service throughout the world. Eleven programs were begun in FY 1990. Fourteen new country entries are scheduled in FY 1991, and at least five more are planned for FY 1992. To demonstrate the importance of the 30 new countries to the legislative goal of 10,000 Volunteers, these programs will support about one-third of the 4,000 Volunteer growth needed to attain this objective by the end of FY 1992, with a much greater potential when fully developed. Thirty-eight million dollars has been designated for new country entries and Volunteer support over this three year period.

Mr. Chairman, I am an enthusiastic supporter of the 10,000-Volunteer goal and of the concept that an appropriate number of Peace Corps Volunteers should be at work in every country that has legitimate needs. I believe that the agency should do everything in its power to respond to these countries' requests for assistance.

The attached chart shows both new country entries and the schedule for the 10,000-Volunteer program. The cost of this strategy reflects both of these factors and is represented in FY 1991 constant dollars. We also are aware that any such plan must recognize the budgetary constraints and conditions of both Congress and the Administration.

Thank you for giving me this opportunity to share with you our plans for reaching the goal set forth in section 1102 of Public Law 99-83. I look forward to working with you to achieve this worthy objective. Your longstanding and dedicated support of the Peace Corps of the United States is appreciated and vital to the Volunteers and their 30 years of service to mankind. We will be happy to respond to any questions or clarifications regarding this schedule and plan.

Sincerely,

PAUL D. COVERDELL.

PEACE CORPS OF THE UNITED STATES

SCHEDULE REQUIRED FOR 10,000 VOLUNTEER PROGRAM BY FISCAL YEAR 1996

Fiscal year	Number of volunteers	New countries ²
1991	15,819	14
1992	6,650	6
1993	7,500	(?)
1994	8,400	(?)
1995	9,300	(?)
1996	10,000	(?)

¹ Volunteers in service reduced due to suspension of activity in 8 countries. 7 are scheduled for reentry to begin in June, 1991.

² New country entries will be needed to achieve the 10,000 volunteer goal by fiscal year 1996. The number of new countries needed to reach the goal will be set by the optimum number of volunteers in each of the new countries entered.

NOTE.—The cost per volunteer, including overhead and infrastructure costs average approximately \$30,000 in fiscal year 1991 constant dollars.

NEW COUNTRY ENTRIES

(In fiscal years)

1990 (actual)	1991 (current)	1992 (projected)
Bolivia, Cook Islands, Cote d'Ivoire, Czech and Slovak Republic, Haiti, Hungary, Malta, Namibia, Poland, Sao Tome and Principe, and Vanuatu.	Bulgaria, Chile, Congo, Guyana, Laos, Madagascar, Mongolia, Nicaragua, Nigeria, Panama, Romania, Uganda, Uruguay, and Zimbabwe.	China, Djibouti, Mozambique, and Yugoslavia. Under Discussion: Angola, Argentina, Bangladesh, Burkina Faso, Indonesia, and Zambia.

Mr. CRANSTON. Mr. President, consistent with our practice over the past several years, our bill proposes a 2-year authorization for Peace Corps appropriations. The bill also would provide for appropriated funds in each of the 2 years to be spent through the following fiscal year, which would provide the Peace Corps with added flexibility to plan programs for more than a 1-year period. When the Peace Corps make plans to enter a new country or accept a new group of volunteers, the agency is making a commitment of at least 2 years to both the country and the volunteers. Requiring a wait-and-see approach to funding each year causes underutilization of resources and a failure to achieve steady and well-planned growth. I note that the administration's fiscal year 1992 budget request included a similar proposal to allow funds appropriated for fiscal year 1992 to remain available through fiscal year 1993.

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

Mr. President, as I mentioned earlier in my statement, one significant factor in the slowed growth toward the 10,000 volunteer goal has been the decreased value of Peace Corps funding due to foreign currency fluctuations.

In a February 27, 1989, letter to me, then-Director Ruppe stated that, due to the falling dollar, \$1.5 million was lost in fiscal year 1989. The Peace Corps has recently advised that, in fiscal year 1990, \$2.1 million was lost to foreign currency fluctuations and an estimated additional \$2.1 million will be lost in fiscal year 1991. In order to avoid such losses in the future, section 3 of our bill would establish a foreign currency fluctuations account for the Peace Corps patterned after similar accounts established for the Departments of Defense and State in 10 U.S.C. 2779 and 22 U.S.C. 2696, respectively, and for the American Battle Monuments Commission in 36 U.S.C. 138c—and would authorize appropriations of amounts sufficient to maintain a balance of \$5 million in the account. Such a foreign currency fluctuations account would help to ensure that, by stabilizing Peace Corps fiscal support, the congressionally intended levels of program operations are achieved. The account would provide a mechanism for redistributing savings realized in certain years when the value of the dollar has risen to offset losses in other years in which the dollar has dropped. This provision is identical to section 3 of S. 2436 as re-

ported by the Foreign Relations Committee on October 2, 1990.

FEDERAL RETIREMENT CREDIT

Mr. President, section 4 of the bill is derived from section 3 of S. 2514, administration-requested legislation introduced by Senator PELL last year. The provisions of section 4 would correct a problem relating to the crediting of Peace Corps service in the computation of Federal retirement benefits. The invaluable work performed by volunteers in service of their country should rightfully be included in calculating Federal retirement benefits.

PEACE CORPS HEALTH-CARE SERVICES

Mr. President, section 5 of our bill would require independent evaluations of health-care services for Peace Corps volunteers.

Peace Corps annually provides complete health-care services to approximately 6,000 volunteers worldwide. Each Peace Corps country program is required, before volunteers arrive, to establish a medical office, which is staffed by a Peace Corps medical officer and usually one other person. The country director is responsible for recruiting the medical staff, and the Peace Corps/Washington Office of Medical Services provides hiring criteria and advice on the applicants. A degree from a medical or nursing school accredited in the United States is not required of Peace Corps medical officers. Within each Peace Corps country, local health-care facilities are identified to serve as referral facilities for health-care problems that the medical officer is not equipped to handle, and, in the case of severe medical problems or emergencies for which there are not adequate host-country facilities, the volunteer is evacuated to either a nearby Peace Corps country or to the United States for care.

As would be expected, Peace Corps volunteers often face, in addition to illnesses and health problems common in the United States, unusual threats to their health arising from service in areas with different standards of water purity and in which strains of bacteria, parasites, and infectious diseases that are not common in the United States are present. An article in the September 1990 issue of Health magazine, which I will submit for the RECORD at the conclusion of my remarks, describes some of the health risks and complications that Peace Corps volunteers face. Because of the serious health-care risks that are sometimes associated with Peace Corps overseas service, I believe it is necessary for the Peace Corps to ensure that it is doing all that it can to provide high quality health-care services to volunteers.

In that regard, section 5 of our bill would require the Director of the Peace Corps to contract with an independent organization or organizations to conduct three biennial evaluations of the health-care needs of volunteers and the

adequacy of the health-care services provided by the Peace Corps. Each report would be submitted to the Director of the Peace Corps, who would then be required to transmit the report, and any comments thereon, to the Senate Foreign Relations Committee and the House Foreign Affairs Committee. Although I understand that the Peace Corps is planning to make certain improvements in its health-care system, I believe an independent monitoring of their programs by appropriate health accreditation organizations over the next several years would help to ensure that any significant problems are identified and corrective measures taken.

FEDERAL EMPLOYMENT COMPENSATION CLAIMS

Mr. President, section 6 of our bill would require a report on Peace Corps and Department of Labor activities regarding the claims of volunteers for Federal workers compensation benefits for disabilities incurred during Peace Corps service.

The Department of Labor advises that approximately one-half of all returning volunteers file with its Office of Workers' Compensation claims under the Federal Employees' Compensation Act [FECA] for medical conditions incurred during their Peace Corps service. Many of these claims are for minor conditions or for short-term counseling and a substantial number are for less than \$100. There are, however, a number of individuals who suffer catastrophic illnesses or become seriously disabled during their service who depend on the Department of Labor to cover their medical expenses and pay disability benefits.

I have been contacted by several returned Peace Corps volunteers who have experienced difficulty obtaining from the Department of Labor or the Peace Corps information about the details of the claims process, what the Peace Corps' role in the process is, and where they can turn for assistance in filing claims. One of the most common situations that leads to confusion is when a volunteer is medically evacuated from his or her country of service and brought back to Washington for medical treatment. During the course of treatment for the condition that precipitated the volunteer's evacuation, the volunteer's medical expenses are fully covered by the Peace Corps. If the problem is successfully treated, the volunteer may return to continue service. However, if the volunteer's medical condition is stabilized yet remains serious enough to prevent the volunteer from returning to service, the volunteer is separated from the Peace Corps. At that point, the Peace Corps' authority to pay for medical costs ends. The volunteer is given whatever readjustment allowance he or she accrued and a plane ticket home. The volunteer is responsible for arranging medical care and rehabilitation, filing a claim under the FECA, and resuming his or her life

outside the Peace Corps. At such an obviously difficult time, I believe it is very important that the volunteer be given all the necessary information and appropriate assistance in a timely manner so as to avoid a situation of having to forego needed medical treatment because of bureaucratic snags or delays in the approval of the volunteer's claim.

Section 6 of our bill would require that the Director of the Peace Corps and the Secretary of Labor jointly submit to the Senate Foreign Relations Committee and the House Foreign Affairs Committee a report on these issues. The report would focus on the coordination between the Peace Corps and Department of Labor in providing information to Peace Corps applicants and volunteers regarding the benefits and services to which they may be entitled, or for which they may be eligible, in the event they are injured or become disabled during service and in processing FECA claims filed by volunteers or trainees. The report would also be required to include recommendations to improve the information and services provided to Peace Corps volunteers and trainees in connection with FECA benefits. Requiring the two agencies to examine their coordination in providing information to applicants, trainees, and volunteers may result in improved services from both agencies to those who must pursue benefits under the FECA.

PEACE CORPS ACT "THIRD GOAL" ACTIVITIES

Mr. President, section 7 of our bill would encourage the Director of the Peace Corps, in carrying out the third goal of the Peace Corps Act—that of increasing the understanding of other peoples on the part of the American people—to continue to develop, foster, assist, and implement education-related programs such as the current Peace Corps programs known as World Wise Schools and Peace Corps Fellows/USA which enable current and former volunteers to share with primary and secondary school students in the United States their volunteer experiences.

CONCLUSION

Mr. President, of all the international efforts we can make to achieve world peace and understanding, there is no greater contribution than that which the American people make through the Peace Corps. The goal of world peace has been well served by the changes which have eliminated some of the political barriers to understanding and communication among nations and among peoples, but there is still a long way to go. The tremendous human and economic costs of the war in which this Nation recently engaged remind us of the great blessings of peace and the enormous costs involved when peace is shattered. Our continued commitment to our now 30-year-old Peace Corps is more important than ever in demonstrating that our willingness to

work for peace is not overshadowed by our willingness to prepare for war. Our investment in the Peace Corps is small compared to the benefits here at home as well as abroad. We must ensure that the Peace Corps stays on the path we have forged thus far toward the 10,000-volunteer goal while we continue to search out ways to improve Peace Corps operations and administration.

I urge all of my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill and the article from the September 1990 issue of *Health* magazine be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1042

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Peace Corps Act Amendments of 1991".

SEC. 2. APPROPRIATIONS FOR THE PEACE CORPS.

Section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the purposes of this Act \$207,500,000 for fiscal year 1992, to remain available until September 30, 1993, and \$243,000,000 for fiscal year 1993, to remain available until September 30, 1994."; and

(2) in the second sentence, by striking out "hereunder" and inserting in lieu thereof "for a fiscal year prior to fiscal year 1992".

SEC. 3. PEACE CORPS FOREIGN CURRENCY FLUCTUATIONS.

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—The Peace Corps Act (22 U.S.C. 2501 et seq.) is amended by inserting after section 15 the following new section:

"FOREIGN CURRENCY FLUCTUATIONS ACCOUNT"

"SEC. 16. (a)(1) There is established in the Treasury of the United States an account to be known as the 'Foreign Currency Fluctuations, Peace Corps, Account'. The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.

"(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director's designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

"(b) Funds transferred under subsection (a) shall be merged with, and be available for the same time period as, the appropriation to which they are applied. Notwithstanding any provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year, such amount shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon

exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) A transfer back to the account under subsection (d) may not be made after the end of the two-fiscal-year period immediately succeeding the fiscal year in which the appropriation to which the funds were originally transferred is available for obligation.

"(f) Not later than the end of the two-fiscal-year period immediately succeeding the fiscal year for which appropriations for the expenses of the Peace Corps have been made available to the Peace Corps, unobligated balances of such appropriation provided for a fiscal year may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with and available for the same period and purposes as that account.

"(g) There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for each fiscal year such sums as may be necessary to maintain a balance of \$5,000,000 in such account at the beginning of such fiscal year.

"(h) The Director of the Peace Corps shall submit to the appropriate committees of the Congress each year a report on funds transferred under this section."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1991.

SEC. 4. DEPOSIT REQUIREMENT FOR RETIREMENT CREDIT AT AGE 62 FOR SERVICE AS A VOLUNTEER.

(a) **CIVIL SERVICE RETIREMENT SYSTEM.**—(1) **EXCEPTION TO EXCLUDABILITY OF SERVICE.**—Section 8332(j) of title 5, United States Code, is amended—

(A) in paragraph (1), by striking out "chapter 34 of title 22" each place it appears and inserting in lieu thereof "the Peace Corps Act"; and

(B) by adding at the end thereof the following new paragraph:

"(3) The provisions of paragraph (1) of this subsection relating to credit for service as a volunteer or volunteer leader under the Peace Corps Act shall not apply to any period of service as a volunteer or volunteer leader under that Act of an employee or Member with respect to which the employee or Member has made a deposit with interest, if any, under section 8334(1) of this title."

(2) **DEPOSITS.**—

(A) **DEPOSITS FROM READJUSTMENT ALLOWANCE.**—Section 8334 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(1)(1) Each employee or Member who has performed service as a volunteer or volunteer leader under the Peace Corps Act before the date of the separation from service on which the entitlement to any annuity under this subchapter is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, to the agency by which the employee is employed or, in the case of a Member or a congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 7 percent of the readjustment allowance paid to the employee or Member under sections 5(c) and 6(1) of the Peace Corps Act for each period of service as such a volunteer or volunteer leader.

"(2) Any deposit made under paragraph (1) more than two years after the later of—

"(A) the date of enactment of the Peace Corps Act Amendments of 1991, or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member, shall include interest on such amount, computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (e) of this section.

"(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Fund.

"(4) The Director of the Peace Corps shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection."

(B) **CONFORMING AMENDMENT.**—Section 8334(e) of title 5, United States Code, is amended in paragraphs (1) and (2) by striking out "or (k)" each of the two places it appears, and inserting in lieu thereof "(k), or (l)".

(3) **TECHNICAL AMENDMENT.**—Section 8332(b)(5) of title 5, United States Code, is amended by striking out "chapter 34 of title 22" and inserting in lieu thereof "the Peace Corps Act".

(b) **FEDERAL EMPLOYEES RETIREMENT SYSTEM.**—

(1) **CREDITABILITY OF SERVICE.**—Section 8411 of title 5, United States Code, is amended—

(A) in subsection (b)(3), by striking out "subsection (f)" and inserting in lieu thereof "subsection (f) or (g)"; and

(B) by adding at the end thereof the following new subsection:

"(g) An employee or Member shall be allowed credit for service as a volunteer or volunteer leader under the Peace Corps Act only if the employee or Member has made a deposit with interest, if any, with respect to such service under section 8422(f)."

(2) **DEPOSITS.**—Section 8422 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) Each employee or Member who has performed service as a volunteer or volunteer leader under the Peace Corps Act before the date of the separation from service on which the entitlement to any annuity under this subchapter, or subchapter V of this chapter, is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, to the agency by which the employee is employed or, in the case of a Member or a congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 3 percent of the readjustment allowance paid to the employee or Member under sections 5(c) and 6(1) of the Peace Corps Act for each period of service as such a volunteer or volunteer leader.

"(2) Any deposit made under paragraph (1) more than two years after the later of—

"(A) the date of enactment of the Peace Corps Act Amendments of 1991, or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member, shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334(e).

"(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Fund.

"(4) The Director of the Peace Corps shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection."

(c) **APPLICABILITY; OTHER PROVISIONS.**—

(1) **APPLICABILITY.**—(A) The amendments made by subsections (a) and (b) shall apply with respect to credit for service as a volunteer or volunteer leader under the Peace Corps Act in the case of any individual who is entitled to an annuity under subchapter III of chapter 83 of title 5, United States Code, on the basis of a separation from service occurring on or after the effective date of this Act, or to an individual entitled to an annuity under chapter 84 of title 5, United States Code, on the basis of a separation from service occurring before, on, or after the effective date of this Act.

(B) In the case of any individual whose entitlement to annuity is based on a separation from service occurring before the one hundred and eightieth day following the date of enactment of this Act, the Office of Personnel Management shall provide an opportunity for such individual to make the deposit required by section 8422(f) of title 5, United States Code, as added by this Act. Any increase in such individual's annuity on the basis of such deposit shall be effective with respect to annuity payments payable for calendar months beginning after September 30, 1991.

(C) In the case of any individual whose entitlement to annuity under subchapter III of chapter 83 of title 5, United States Code, is based on a separation from service occurring before the date of enactment of this Act, credit for service under such subchapter III shall be subject to paragraphs (2) through (6).

(2) **REDUCTION FORMULA.**—Subject to paragraph (3), in any case in which an individual described in paragraph (1)(C) is also entitled to old age or survivor's insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing an application therefor), the amount of the annuity to which such individual is entitled under the subchapter III of chapter 83 of title 5, United States Code (after taking into account service as a volunteer or volunteer leader under the Peace Corps Act) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age or survivor's insurance benefit for the determination month by a fraction—

(A) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service as a volunteer or volunteer leader under the Peace Corps Act of such individual credited for years before the calendar year in which

the determination month occurs, up to the contribution and benefit base determined under section 230 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act) for each year; and

(B) the denominator of which is the total of all wages described in subparagraph (A), plus all other wages (within the meaning of section 209 of such Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (of such other amount referred to in section 215(e)(1) of such Act) for each such year.

(3) **MINIMUM ANNUITY.**—Paragraph (2) shall not reduce the annuity of an individual below the amount of the annuity which would be payable to the individual for the determination month if service of a volunteer or volunteer leader under the Peace Corps Act were not creditable in the computation of the individual's annuity for such month.

(4) **DEFINITION.**—For purposes of this subsection, the term "determination month" means—

(A) the first month the individual described in paragraph (1)(C) is entitled to old-age or survivor's benefits under section 202(a) of the Social Security Act (or would be entitled to such benefits upon filing an application therefor); or

(B) October 1991, in the case of any individual so entitled to such benefits for such month.

(5) **EFFECTIVE DATE.**—The provisions of paragraph (2) through (4) of this subsection shall take effect with respect to any annuity payment payable under subchapter III of chapter 83 of title 5, United States Code, for calendar months beginning after September 30, 1991.

(6) **INFORMATION.**—The Secretary of Health and Human Services shall furnish such information to the Office of Personnel Management as may be necessary to carry out the provisions of this subsection.

SEC. 5. EVALUATION OF HEALTH-CARE SERVICES PROVIDED TO PEACE CORPS VOLUNTEERS.

(a) **IN GENERAL.**—Before January 1, 1997, the Director of the Peace Corps shall contract with an eligible organization or organizations to conduct, at separate intervals, a total of three evaluations of the health-care needs of the Peace Corps volunteers and the adequacy of the system through which the Peace Corps provides health-care services in meeting those needs.

(b) **REQUIREMENTS OF THE EVALUATIONS.**—Each evaluation shall include an assessment of the adequacy of the Peace Corps health-care system—

(1) to provide diagnostic, treatment, and referral services to meet the health-care needs of Peace Corps volunteers; and

(2) to conduct health examinations of applicants for enrollment as Peace Corps volunteers and to provide immunization and dental care preparatory to service of applicants for enrollment who have accepted an invitation to begin a period of training for service as a Peace Corps volunteer.

(c) **REPORTS TO THE PEACE CORPS.**—An organization making an evaluation under this section shall submit to the Director of the Peace Corps a report containing its findings and recommendations not later than December 31, 1992, December 31, 1994, and December 31, 1996, as the case may be. Each report shall include recommendations regarding appropriate

standards and procedures for ensuring the furnishing of quality medical care and for measuring the quality of care provided to Peace Corps volunteers.

(d) **REPORT TO CONGRESS.**—Not later than 90 days after receipt of a report required by subsection (c), the Director of the Peace Corps shall transmit the report, together with the Director's comments, to the appropriate congressional committees.

(e) **DEFINITIONS.**—For purposes of this section—

(1) the term "appropriate congressional committee" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives; and

(2) the term "eligible organization" means an independent health-care accreditation organization or other independent organization with expertise in evaluating health-care systems similar to that of the Peace Corps.

SEC. 6. REPORTING REQUIREMENT ON EMPLOYMENT-RELATED MATTERS.

(a) **IN GENERAL.**—Not later than August 31, 1992, the Director of the Peace Corps and the Secretary of Labor, shall jointly submit to the appropriate congressional committees a report which describes—

(1) the information provided by the Peace Corps to its volunteers and to applicants for volunteer service in the Peace Corps regarding the benefits to and services to which Peace Corps volunteers or trainees may be entitled or for which they may be eligible in the event that they sustain injuries or become disabled during their service, or their training for service, with the Peace Corps;

(2) the efforts by the Peace Corps and the Department of Labor to coordinate the provision of such information to Peace Corps volunteer-applicants and volunteers and the processing of claims by Peace Corps volunteers under the Federal Employees Compensation Act (FECA);

(3) the number of Peace Corps volunteers and volunteer-applicants who have filed claims under the Federal Employees Compensation Act (FECA) and the percentage of the claims that have been approved; and

(4) the timeliness of approvals or denials of claims of Peace Corps volunteers and volunteer-applicants under the Federal Employees Compensation Act (FECA).

(b) **RECOMMENDATIONS.**—The report required by subsection (a) shall also include such recommendations as the Director of the Peace Corps and the Secretary of Labor may determine necessary to facilitate the filing and processing of claims by Peace Corps volunteers regarding the benefits described in that subsection.

(c) **DEFINITION.**—For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 7. PEACE CORPS ACT "THIRD GOAL" ACTIVITIES.

(a) **IN GENERAL.**—The Congress encourages the Director of the Peace Corps, in carrying out the third goal of the Peace Corps Act, to continue to develop, foster, assist, and implement education-related programs such as the current Peace Corps programs known as "World Wise Schools" and "Peace Corps Fellows/USA", which enable current and former volunteers to share with primary and secondary school students and communities in the United States their volunteer experiences.

(b) **DEFINITION.**—For purposes of this section, the term "third goal of the Peace Corps

Act" means the goal described in section 2(a) of the Peace Corps Act of increasing the understanding of other peoples on the part of the American people.

THE BEST AND THE BLIGHTED

(By John Grossmann)

In 1975, fresh out of college, my younger brother Bob volunteered for the Peace Corps and was sent to the west coast of Africa, to one of the poorest countries in the world, a land now called Benin. He arrived, eager to teach the villagers how to build grain silos and share two years of his life. He returned a year later with bright swatches of material and snapshots of himself with villagers. He left something important behind: his health.

During the bicentennial summer, Bob was "med-evaced"—Peace Corps jargon for flying seriously ill volunteers to medical facilities—and admitted to George Washington University Hospital in D.C. He was weak, feverish and complaining of stomach discomfort. Tests revealed the presence of *Strongyloides* larvae, gastrointestinal parasites. In and out of hospitals and clinics ever since, he has suffered from gastrointestinal problems and from acute and chronic pain, especially in his kidneys and testes. Blood tests have discovered that he harbors another tropical parasite, schistosomiasis, a potential cause of bladder cancer. They have also shown that he has contracted hepatitis B (in Africa, he thinks) though he is not a "carrier."

Bob has had a difficult time medically and emotionally. Although the federal government is committed to paying costs for medical problems linked to Peace Corps service, he has encountered inordinate red tape in seeking reimbursement for treatment. Only recently, 14 years after leaving the Peace Corps, has he received some compensation. Though Bob, who is now special assistant to the director of Hawaii's State Department of Health, has come to terms with what is likely a lifelong disability, he is not at peace with the Peace Corps. His case is apparently not all that unusual.

As this article went to press, a workshop devoted largely to volunteers' medical problems was being included at the annual conference of the National Council of Returned Peace Corps Volunteers, in Eugene, Oregon. And, at the prodding of U.S. Senator Daniel K. Inouye of Hawaii, the General Accounting Office, the investigative arm of Congress, has begun a study of the issue.

"I am very concerned about the health of current and former volunteers," maintains Paul D. Coverdell, Peace Corps director. "We'll cooperate fully with the investigation. After it's completed, we'll decide what steps we need to take."

With the Corps set to celebrate its 30th anniversary next year and with the number of volunteers projected to rise from the current 6,100 to upwards of 12,000 by the decade's end, the questions being raised about the Peace Corps' commitment to health have a special resonance. How safe is service? Is the agency doing all it can to protect volunteers and help former recruits? And what does this all say about our nation's allegiance to its emissaries of good will?

UNWELCOME SOUVENIRS

Created by President John F. Kennedy in 1961, the Peace Corps has sent more than 122,000 Americans overseas—to virtually every disease-ridden country in the third world. There's no doubt: sign up for the Peace Corps and some illness is bound to come with the territory. A 1989 report in the

International Journal of Epidemiology by the Peace Corps' Medical Services division and several other health organizations indicated that nearly every volunteer gets diarrhea; about one in four battles amoebic dysentery; nearly one in five suffers bacterial skin infections; lesser numbers become infested with parasites. Other research shows that some 300 to 400 contract malaria annually. Of last year's \$153 million Peace Corps budget, roughly 10 percent was spent on medical care for current and former volunteers and on workers' compensation for those too sick to hold a job.

Overseas, the agency's dedication to seriously ill volunteers appears unassailable: A single medical evaluation can average \$7,000 and top \$100,000; last year the agency spent \$3.2 million alone securing volunteers' hospital care, often flying them thousands of miles to the U.S. Five years ago, it began a computerized epidemiological surveillance system to track some 31 health conditions in 62 foreign countries. Yet the agency has never conducted a follow-up survey on the well-being of former volunteers.

Concerned that many might be suffering service-related illnesses, my brother along with Hawaii State Representative James T. Shon, a former Peace Corps volunteer and chairman of the health committee of the Hawaii House of Representatives, mailed a health questionnaire to 378 returned volunteers known to reside in Hawaii. They received 142 surveys back from recent returnees and those who'd served many years before. Forty-seven, or 33 percent of respondents, said they had suffered what they considered service-related medical problems. A volunteer who served in Zaire from 1981 to 1982, for example, wrote that "nine months after PC service I experienced severe fatigue . . . the next six months were spent trying to convince several doctors I was a sick woman . . . I was found to be harboring not one, but three different malevolent type amoebae."

"I began experiencing symptoms in April 1985—approximately one year after completing my service," wrote a two-time volunteer who served in Malaysia and Thailand. "I was incredibly fatigued, had terrible headaches, swollen lymph nodes, generalized aches, slight fever and localized pain in my upper thighs and groin." Diagnosed three years later with filariasis, a lymph-dwelling parasite, he added: "While I remain 100 percent pro-Peace Corps, I feel that the program is very weak in protecting the health of volunteers. . . ."

When the survey findings were shared with the Peace Corps, the agency's official response dismayed Shon and my brother: "It is gratifying that such a high percentage of respondents were positive about health care and training during their Peace Corps Service," wrote Theresa H. van der Lugt, M.D. Peace Corps director of medical services. When asked recently to comment on the survey finding, she replied: "Many people leave the Peace Corps with parasitic illnesses or skin infections. These are generally not life-threatening."

INNOCENTS ABROAD

Talk to the Peace Corps and medical officers and in-country directors and you soon get an earful of their frustrations. Volunteers are extensively briefed about health risks and prevention measures before they go into the field, but once on their own, they may become lax. Linda Gray, executive director of the National Council of Returned Peace Corps Volunteers, who served in Liberia and was a country director in Niger, recalls visiting volunteers in the bush and

finding at least two on a 40-stop trip offering her untreated water. She wonders how many others cleaned up their act for her benefit. "A lot of volunteers don't follow the advice they're given," says Gray.

Volunteers counter that sometimes it's impossible to honor their health training. In order to establish relationships with villagers, workers may feel compelled to dine with them. And often that means drinking untreated water or eating food from a common bowl with no utensils—either action can unleash a Pandora's box of health problems.

PARASTIC RED TAPE

Officially, the Peace Corps' statutory obligation to its volunteers ends with the completion of their tour of duty. That means that volunteers seeking compensation get handed off from the small agency they felt loyalty toward to the elephantine bureaucracy of the Department of Labor and the Federal Employees' Compensation Act (FECA) program which assists federal employees who have medical problems. But for some Corps workers there's a catch: Tropical diseases can be extremely difficult to diagnose, making it tough to receive compensation.

"There's some burden on the employee to prove that an illness or disability is job-related, typically a medical report in narrative form signed by a doctor," explains Thomas M. Markey, director for Federal Employee Compensation at the Department of Labor. And that process can be cumbersome and frustrating.

Consider the case of John Berestecky. Within a month of returning from Liberia in 1982, he developed rashes around his ankles, knees and hips. When he contacted the Peace Corps, an official told him, "We need a definite diagnosis before we can do anything." Eight years and more than a dozen biopsies later, there's still no definitive diagnosis, though Berestecky's current doctor suspects the parasite filaria. The Peace Corps has not checked up on him and he has had no contact with the agency or the Department of Labor for years. That's not unusual: The Hawaii questionnaire found that of those who reported post-service medical problems, only about one in five had filed a claim. There is concern that some alums aren't aware of how to file.

BUREAUCRATIC OVERHAUL

Fortunately, there are signs that the situation is improving. In 1989, the Peace Corps got a new Workers' Compensation Program Manager. Susan Gambino, who had earned high marks in a similar role at the Commerce department, was assigned to the Peace Corps office that serves as a liaison with the Department of Labor.

In sifting through pending Peace Corps files, she found, "a lot of claims weren't paid because claimants didn't follow through." She also counted 2,500 so-called "pending cards" on former volunteers from the early 1960s to 1987. Presumably, most were ill when they contacted the agency about health coverage. All had been sent a packet explaining their rights under FECA and were mailed a reminder a month later. End of contact. Had the volunteers gotten better? Had they moved? Had they died? "I have no idea why they never responded," says Gambino. She has implemented a new system that includes telephone follow-ups and a third contact asking volunteers why they haven't submitted a claim.

Helping alums complete their claims is a step in the right direction. But Shon and other critics think the Corps should also

overhaul its policy concerning hepatitis B. They are alarmed that the Peace Corps doesn't heed a Centers for Disease Control recommendation for vaccination of Americans remaining at least six months in countries with a high endemic incidence of the disease.

Current Peace Corps policy provides the vaccine, which costs up to \$120 for the required three doses, to a small percentage of high-risk volunteers—those who may come into contact with blood or blood products or who work with institutionalized children and adults. Peace Corps data indicates that hepatitis B occurs in less than one percent of volunteers, but that only reflects reported cases—workers who become ill and test positive. The Corps doesn't currently test for hepatitis B in the standard, in-country, close-of-service medical exam.

About one third of those contracting hepatitis B suffer recognizable symptoms, including jaundice. The remaining two thirds are more problematic: Half are asymptomatic and half have flu-like symptoms. Moreover, since the incubation period for the disease can be as long as six months, some volunteers don't develop symptoms until their return. While only six to 10 percent of those infected become carriers, they face increased risk of liver cancer and other diseases and can transmit hepatitis B to others. My brother is concerned about that as well. He continues to press for more accountability from the Peace Corps. In May, when Coverdell addressed a reception of alums in Hawaii, Bob used his turn at the microphone to ask how many have had health problems since returning. According to a newspaper account, "one out of five people in the room raised hands. . . ."

"That made a statement," says Bob, who hopes that placing real people before the Peace Corps brass may help spur changes. "I think Coverdell's conscience can't avoid the issue."*

• Mr. BOREN. Mr. President, I am pleased to rise today in support of Senator CRANSTON's bill to reauthorize funding for the U.S. Peace Corps. This legislation provides support critical to maintaining the Peace Corps' international presence.

Mr. President, if there is a lesson we should learn, a common denominator we should infer from rapidly unfolding world events—including upheaval in the Soviet Union and in the Persian Gulf—it is that the United States is being called upon to play an increasingly major role in global politics. In spite of our military victory in the Middle East, our future role will not be purely a military one; it will be, rather, mainly an economic and social one. The world is looking to us for leadership and guidance. Are we, as a nation, prepared to assume an economic and social leadership role?

Among the skills most basic to a world leadership role is an understanding of the world's languages and cultures. Until now, this Nation's approach to education has been more or less isolationist. But it is becoming increasingly clear that our ignorance of world cultures and world languages severely limits our ability to enter into global exchange. Very simply, either our children will develop the skills nec-

essary to function in the international community or they will be shut out of it.

In the now infamous Gallup Poll published in the National Geographic magazine, American students between ages 18 and 24 ranked dead last in geographic knowledge among the 10 nations surveyed. The study revealed some ominous trends: While Soviet students—predictably—scored well above their elders whose educational opportunities were limited, American students scored significantly below older Americans. Soviet students answered nearly a third more questions correctly than we did and the National Geographic Society's chairman, Gilbert Brosvenor, remarked, "Younger Soviets have come a long way toward knowing the world around them." Kindly, he did not comment on how far American youth has to go to achieve that same knowledge. If we expect to be world leaders in the next century, we must—at the very least—be able to understand and communicate with that world.

The U.S. Peace Corps has created a program to help American students achieve that goal. In an effort to bring some of its international experience and expertise back home, the Peace Corps developed its World Wise Schools program a year ago. World Wise Schools encourages interest in geography, foreign language and international affairs by providing, as Peace Corps Director Paul Coverdell says, "a window for U.S. students to view and experience new countries and cultures." The program links a primary or secondary school classroom to a Peace Corps volunteer who shares his or her experience abroad with letters, photographs, cassette tapes and artifacts. The Peace Corps supplements this exchange with videos and newsletters describing life in foreign countries.

The World Wise Schools Program helps students see beyond the borders of the United States. It gives them a global perspective critical to America's role in the international community and it helps them understand the importance of American leadership and influence around the world. My home State of Oklahoma was one of the first World Wise States and our 500 high schools will be participants in the program by the end of 1992.

Mr. President, the World Wise Schools Program is only one of the activities which will benefit from this legislation. We don't suggest that this legislation alone fully integrates the United States into the international community, but it is a first step. It's a step toward developing the assets we must have to lead the world in the next century. It is a step we must take now. •

By Mr. SHELBY:

S.J. Res. 142. A resolution to designate the week beginning July 28,

1991, as "National Juvenile Arthritis Awareness Week"; to the Committee on the Judiciary.

NATIONAL JUVENILE ARTHRITIS AWARENESS WEEK

Mr. SHELBY. Mr. President. I rise today to introduce a joint resolution designating the week beginning July 28 as the "National Juvenile Arthritis Awareness Week."

Growing up in today's society is not easy. However, growing up with arthritis poses an even tougher set of problems and challenges for the estimated 250,000 children in the United States who have some form of the disease. Arthritis can strike at any age—and can last a lifetime. As with adults, juvenile arthritis can make even simple tasks, such as walking or tying shoes, seem difficult and frustrating, affecting the quality of life for our future citizens and leaders. It is a crippling condition that attacks the joints and major organs, the heart, liver, spleen and even the eyes. There is no cure.

The word "arthritis" means inflammation—that is, swelling, heat, and pain in a joint. Childhood arthritis can take many forms, among these are ankylosing spondylitis, mixed connective tissue disease, systemic lupus erythematosus, Lyme arthritis, polymyositis and dermatomyositis. The most common form is juvenile rheumatoid arthritis. This type has at least three forms. Systemic, which affects the entire body, and can begin with a very high fever, a rash, swollen joints, and pain; polyarticular, which begins in five or more joints and pauciarticular, which begins by affecting four or fewer joints.

Juvenile arthritis impacts the entire family, not only the child who has the disease. A diagnosis of arthritis in a child brings with it a range of emotional reactions in the child, siblings and especially in the parents. It also calls for a major change in how the family functions on a day-to-day basis, to take into account the time and effort needed to follow the prescribed treatment program.

Mr. President, we need to raise the public awareness of this debilitating disease. It is not confined to the aged. It can affect children at infancy and stay with them throughout their adult lives. Passage of this legislation will ensure that the commitment made to uncover the cause and cure for juvenile arthritis is continued. We need a greater commitment to research and education to develop a deeper understanding about juvenile arthritis. Heightened awareness of this disease is essential to this effort. I urge my colleagues to support this joint resolution.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 142

Whereas over 250,000 children in the United States are affected by the debilitating disease known as Juvenile Arthritis;

Whereas this crippling condition attacks the joints and major organs of the human body—heart, liver, spleen, and even eyes;

Whereas this disease is often lifelong, affecting children into their adulthood, making even simple tasks seem difficult and frustrating, affecting the quality of life for our future citizens and leaders;

Whereas Juvenile Arthritis can be controlled reasonably well in most people, but it can prove fatal in some instances; and

Whereas the commitment to research and education efforts to develop a greater understanding about Juvenile Arthritis should be encouraged and continued: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 28, 1991, is designated as "National Juvenile Arthritis Awareness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

By Mr. RIEGLE (for himself and Mr. DIXON):

S.J. Res. 143. A resolution to designate the week of August 4 through August 10, 1991, as the "International Parental Child Abduction Awareness Week"; to the Committee on the Judiciary.

INTERNATIONAL PARENTAL CHILD ABDUCTION AWARENESS WEEK

• Mr. RIEGLE. Mr. President, today I am introducing with Senator DIXON a resolution to increase public awareness of the horror of international parental child abduction. Last year I introduced this resolution after learning about a resident from my home State of Michigan. The compelling story of Betty Mahmoody and her escape from Iran with her daughter Mahtob received worldwide attention with the publication of her book, "Not Without My Daughter" and the recent release of a movie with the same title.

By bringing attention to this issue, we can help families that are experiencing this problem and I hope, help prevent further children from being abducted. Since I introduced the international child abduction awareness resolution last year, Michigan has witnessed several other dramatic cases. For instance, Kathy West of Grand Rapids had nowhere to turn when her daughter, Eva was abducted and taken to Spain 11 years ago. After spending 2 hours with Betty Mahmoody following a lecture, Kathy was filled with hope and a renewed determination to reclaim her daughter. Betty shared valuable information on how to get Eva back from Spain and worked with my office to make sure it happened.

Recently, Christy Kahn was reunited with her children who had been abducted and taken to Pakistan for a grueling 27 months. Betty again called

on my office and, I worked to ensure that Christy was provided advice and protection while overseas fighting for custody of her two young boys. If Kathy and Christy had never met Betty, they might not have known where to turn for the kind of help necessary to get their children safely home.

Child Advocacy groups new and old are getting involved. "One World for Children" founded by Betty Mahmoody is an example of a group that can help advocacy leaders understand the seriousness of the problem and work with parents when they experience this tragedy. Another is the National Center For Missing and Exploited Children. This group provides counseling and booklets containing step-by-step information for parents who have had a child abducted—either inside or outside this country. These groups have been very helpful to parents and to the leaders who are working to put an end to this atrocious crime.

Through my casework system I have helped many parents find their children. Currently, we are handling more than 50 cases involving parents who have had their children abducted or fear that their children will be abducted. We explain preventative methods to parents and can act as a liaison between parents and the Federal agencies that can offer assistance.

Although some of these cases have happy endings, the tragedy of international child abduction ultimately does damage to both the child and the victimized parent. The experience of abducted children who have been returned to their custodial parents reveals that the child undergoes terrible trauma, by being torn from one of their parents and separated from the love and support that is so vital to their lives. The child is often turned against his or her home country and the parent who has been left behind. The parental victims have been deprived of the children whom they have nurtured and to whom they have devoted their lives. This experience is certainly among the most anguishing that any parent might endure.

We must continue to help the more than 3,500 children who have been abducted by a noncustodial parent and forced to live in a foreign land and an unfamiliar home. International parental abductions are on the rise. Over the last 7 years, the number has doubled.

Mr. President, this resolution will raise awareness of this tragedy. International Parental Child Abduction Awareness Week will help focus public attention of this phenomenon and the pain it inflicts on innocent children and parents. It also give parents a sense of hope to sustain them while they are working to regain custody. I also hope that, this resolution will serve as a deterrent to parents contemplating an abduction. I urge my

colleagues to support the enactment of this resolution, and to take a step toward eliminating this problem.

I ask unanimous consent that the full text of the resolution be printed in the RECORD immediately after my remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 143

Whereas in the last fifteen years, ten thousand of our Nation's children have been abducted by a noncustodial parent, forcibly removed from their homes to foreign and unfamiliar lands to them, and prevented from returning to the United States;

Whereas cases of international parental child abduction have nearly doubled over the last seven years;

Whereas four hundred children were victims of this anguish in 1988 alone;

Whereas the freedom of our Nation's children and the rights of their custodial parents are threatened by the specter of international child abduction;

Whereas the children of the United States are damaged, sometimes permanently, by the trauma associated with abduction and the deprivation of the familiar love of one of their parents;

Whereas the abducted child's loyalties are frequently turned against this country and his or her nonabductor parent;

Whereas the left-behind parent is also victimized, deprived of the child they have loved and that has provided a pillar upon which to define the meaning of their existence;

Whereas current domestic and international laws are not adequate to provide for the return of these children and have no binding, international force to influence the nations that provide havens for the abductors;

Whereas the Hague convention provisions, the only currently existing international deterrents, lack binding force because of the vast number of nonsignatory nations;

Whereas international parental child abduction is one of the most horrendous forms of child abuse; and

Whereas the declaration of International Parental Child Abduction Awareness Week will focus the Nation's attention on the tragedy and pain this phenomenon inflicts upon the involved children and families: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of August 4 through August 10, 1991, is designated the "International Parental Child Abduction Awareness Week", and the President is authorized and requested to issue a proclamation calling on all public officials and the people of the United States to observe the week with appropriate programs and activities.

By Mr. D'AMATO:

S.J. Res. 144. Joint resolution to designate May 27, 1991, as "National Hero Remembrance Day"; to the Committee on the Judiciary.

NATIONAL HERO REMEMBRANCE DAY

• Mr. D'AMATO. Mr. President, I rise today to introduce legislation designating Memorial Day, May 27, 1991, as "National Hero Remembrance Day."

This legislation recognizes those dedicated soldiers who lost their lives in the line of duty while serving in the Persian Gulf war. These selfless, courageous individuals proudly represented the United States in our efforts to liberate Kuwait and rid that country of the murderous Iraqi military. These soldiers are heroes in the hearts of us all.

During the conflict, the United States had more than 500,000 troops stationed in the gulf. These brave men and women left their family and friends to give force to the concept of a new world order. Although our victory was swift and decisive, it was unfortunately accompanied by the loss of approximately 100 American lives.

On Memorial Day we recognize and remember our soldiers who have fallen in the line of duty. This year, unfortunately, we mourn the loss of yet another 100 heroes. This Memorial Day, May 27, 1991, let us salute those individuals who sacrificed their lives in the name of freedom and world peace by recognizing "National Hero Remembrance Day."

Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 144

Whereas more than 500,000 troops of the United States armed forces served in the Persian Gulf conflict, with troops from 28 other nations;

Whereas, to enforce the United Nations resolutions regarding the Iraqi occupation of Kuwait, the brave United States troops engaged in a massive effort to successfully expel the troops of the murderous Iraqi military from Kuwaiti soil;

Whereas the dedicated United States troops risked their lives to liberate Kuwait and to eliminate the deadly Iraqi military threat;

Whereas approximately 100 United States troops gave their lives in the Persian Gulf conflict in the pursuit of freedom;

Whereas the people of the United States owe a special debt of gratitude to the heroic United States troops who died in the Persian Gulf conflict;

Whereas the people of the United States are united in support of the Nation's role in the Persian Gulf conflict;

Whereas the people of the United States celebrate the return of the victorious United States troops from the Persian Gulf conflict; and

Whereas commemoration of National Hero Remembrance Day provides an opportunity for the people of the United States to remember the heroic United States troops who lost their lives in the Persian Gulf conflict: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 27, 1991, is designated as "National Hero Remembrance Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 83

At the request of Mr. SYMMS, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 83, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 104

At the request of Mr. PRESSLER, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 104, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a physician as principal and interest on student loans if the physician agrees to practice medicine for 2 years in a rural community.

S. 240

At the request of Mrs. KASSEBAUM, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 280

At the request of Mr. DOLE, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 280, a bill to provide for the inclusion of foreign deposits in the deposit insurance assessment base, to permit inclusion of nondeposit liabilities in the deposit insurance assessment base, to require the FDIC to implement a risk based deposit insurance premium structure, to establish guidelines for early regulatory intervention in the financial decline of banks, and to permit regulatory restrictions on brokered deposits.

S. 339

At the request of Mr. DECONCINI, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 339, a bill to enhance the Federal Government's authority and ability to eliminate violent crime committed by outlaw street and motorcycle gangs.

S. 359

At the request of Mr. BOREN, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 448

At the request of Mr. SYMMS, the names of the Senator from Iowa [Mr. HARKIN], the Senator from North Dakota [Mr. BURDICK], the Senator from Washington [Mr. GORTON], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 448, a bill to amend the Internal Revenue Code of 1986 to allow tax exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 504

At the request of Mr. HARKIN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 504, a bill to the Standing Rules of the Senate to require that reports accompanying each bill involving public health that is reported by a Senate Committee contain a prevention impact evaluation, to establish a Task Force on Disease Prevention and Health Promotion, and for other purposes.

S. 505

At the request of Mr. HARKIN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 505, a bill to change the name of the Centers for Disease Control to the Centers for Disease Prevention and Control, and for other purposes.

S. 506

At the request of Mr. HARKIN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 506, a bill to amend title XVIII of the Social Security Act to require hospitals receiving medicare payments for graduate medical education programs to incorporate training in disease prevention and health promotion, and to prohibit reductions in payment rates for direct and indirect medical education costs.

S. 507

At the request of Mr. HARKIN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 507, a bill to amend the Public Health Service Act to expand the scope of educational efforts concerning lead poisoning prevention, and for other purposes.

S. 508

At the request of Mr. HARKIN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 508, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening mammography where payment is not otherwise available for such screening for women over 49 years of age regardless of eligibility for benefits under such title, and for other purposes.

S. 509

At the request of Mr. HARKIN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 509, a bill to amend the Public Health Service Act to establish a pro-

gram for the prevention of disabilities, and for other purposes.

S. 510

At the request of Mr. HARKIN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 510, a bill to amend the Older Americans Act of 1965 to expand the preventive health services program to include disease prevention and health promotion services, and for other purposes.

S. 544

At the request of Mr. HEFLIN, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from North Carolina [Mr. HELMS], the Senator from Nebraska [Mr. EXON], the Senator from Connecticut [Mr. DODD], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 544, a bill to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes.

S. 559

At the request of Mr. SYMMS, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Oklahoma [Mr. BOREN], were added as cosponsors of S. 559, a bill to require the Secretary of the Treasury to mint coins in commemoration of Operation Desert Shield/Desert Storm.

S. 581

At the request of Mr. BOREN, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Utah [Mr. HATCH], the Senator from Mississippi [Mr. COCHRAN], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 581, a bill to amend the Internal Revenue Code of 1986 to provide for a permanent extension of the targeted jobs credit, and for other purposes.

S. 615

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 615, a bill entitled the "Environmental Marketing Claims Act of 1991."

S. 654

At the request of Mr. DECONCINI, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 654, a bill to amend title 35, United States Code, with respect to patents on certain processes.

S. 673

At the request of Mr. DODD, the names of the Senator from Hawaii [Mr. INOUE] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 673, a bill to amend the Occupational Safety and Health Act of 1970 to establish an Office of Construction Safety, Health, and Education, to improve inspections, investigations, re-

porting, and recordkeeping on construction sites to require the designation of project constructors who have overall responsibility for safety and health on construction sites, to require project constructors to establish safety and health plans, to require construction employers to establish safety and health programs, and for other purposes.

S. 684

At the request of Mr. FOWLER, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 684, a bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes.

S. 733

At the request of Mr. GRAHAM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 733, a bill to amend the Federal Water Pollution Control Act.

S. 734

At the request of Mr. GRAHAM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 734, a bill to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the Outer Continental Shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the eastern Gulf of Mexico planning area lying off the State of Florida, and for other purposes.

S. 735

At the request of Mr. GRAHAM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 735, a bill to establish certain requirements related to the planning and management and the determination of economic and other benefits and costs of U.S. Army Corps of Engineers civil works projects for the conservation and development of water and related resources, and for other purposes.

S. 736

At the request of Mr. GRAHAM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 736, a bill to amend the Outer Continental Shelf Lands Act.

S. 737

At the request of Mr. GRAHAM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 737, a bill to require a comprehensive analysis of long term requirements of Federal, State, and local regulators and resource managers for scientific data and information about the Nation's coastal and marine environment and the conditions and phenomena affecting the quality of that environment; to require an evaluation

of federally conducted or supported coastal and marine scientific research programs and activities in light of those requirements; and to require the preparation and submission to Congress of a report of the results of the analysis and evaluation, including recommendations for legislation, if appropriate, to restructure or otherwise enhance the performance of those programs and activities.

S. 741

At the request of Mr. WIRTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 741, a bill to promote cost effective energy efficiency improvements in all sectors of the economy, promote the use of natural gas and encourage increased energy production, thereby reducing the Nation's dependence on imported oil and enhancing the Nation's environmental quality and economic competitiveness.

S. 742

At the request of Mr. WIRTH, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 742, a bill to promote cost-effective energy efficiency improvements in all sectors of the economy, promote the use of natural gas, and encourage increased energy production, thereby reducing the Nation's dependence on imported oil and enhancing the Nation's environmental quality and economic competitiveness.

S. 845

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 845, a bill to direct the Secretary of State to seek an agreement from the Arab countries to end certain passport and visa policies, and for other purposes.

S. 855

At the request of Mr. GLENN, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 855, a bill to amend the act entitled "An Act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean War."

S. 890

At the request of Mr. KENNEDY, the names of the Senator from Washington [Mr. GORTON], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 890, a bill to reauthorize the Star Schools Program Assistant Act, and for other purposes.

S. 895

At the request of Mr. PRESSLER, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 895, a bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to

a dependent of the taxpayer who suffers from Alzheimer's disease or related organic brain disorders.

S. 898

At the request of Mr. LEAHY, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Connecticut [Mr. DODD], the Senator from Colorado [Mr. WIRTH], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 898, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve the safety of exported pesticides, and for other purposes.

S. 911

At the request of Mr. KENNEDY, the names of the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from Arizona [Mr. DECONCINI], the Senator from Ohio [Mr. METZENBAUM], the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 911, a bill to amend the Public Health Service Act to expand the availability of comprehensive primary and preventative care for pregnant women, infants and children and to provide grants for home-visiting services for at-risk families, to amend the Head Start Act to provide Head Start services to all eligible children by the year 1994, and for other purposes.

S. 914

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations; and for other purposes.

S. 929

At the request of Mr. WALLOP, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 929, a bill to authorize the Secretary of the Interior and the Secretary of Agriculture to undertake interpretive and other programs on public lands and lands withdrawn from the public domain under their jurisdiction, and for other purposes.

S. 983

At the request of Mr. MCCONNELL, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 983, a bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of pornographic material.

SENATE JOINT RESOLUTION 36

At the request of Mr. PRESSLER, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from

Utah [Mr. HATCH] were added as a cosponsors of Senate Joint Resolution 36, a joint resolution to designate the months of November 1991, and November 1992, as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 40

At the request of Mr. THURMOND, the names of the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 40, a joint resolution to designate the period commencing September 8, 1991, and ending on September 14, 1991, as "National Historically Black Colleges Week."

SENATE JOINT RESOLUTION 49

At the request of Mr. SARBANES, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of Senate Joint Resolution 49, a joint resolution to designate 1991 as the "Year of Public Health" and to recognize the 75th anniversary of the founding of the Johns Hopkins School of Public Health.

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 107

At the request of Mr. MOYNIHAN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Joint Resolution 107, a joint resolution to designate October 15, 1991, as "National Law Enforcement Memorial Dedication Day."

SENATE JOINT RESOLUTION 113

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of Senate Joint Resolution 113, a joint resolution designating the oak as the national arboreal emblem.

SENATE JOINT RESOLUTION 114

At the request of Mr. GARN, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Washington [Mr. GORTON], the Senator from Hawaii [Mr. INOUE], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 114, a joint resolution to designate May 1991 as "Neurofibromatosis Awareness Month."

SENATE JOINT RESOLUTION 121

At the request of Mr. DECONCINI, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Mississippi [Mr. COCHRAN], the Senator from Alabama [Mr. SHELBY], the Senator from Alaska [Mr. STEVENS], the Senator from Hawaii [Mr. AKAKA], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 126

At the request of Mr. HATFIELD, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Iowa [Mr. GRASSLEY], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Tennessee [Mr. SASSER], the Senator from Missouri [Mr. BOND], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 126, a joint resolution to designate the second Sunday in October of 1991 as "National Children's Day."

SENATE JOINT RESOLUTION 130

At the request of Mr. LAUTENBERG, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 130, a joint resolution to designate the second week in June as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 133

At the request of Mr. HOLLINGS, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Hawaii [Mr. INOUE], the Senator from Arkansas [Mr. BUMPERS], the Senator from California [Mr. CRANSTON], and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Joint Resolution 133, a joint resolution in recognition of the 20th anniversary of the National Cancer Act of 1971 and the over 7 million survivors of cancer alive today because of cancer research.

SENATE JOINT RESOLUTION 136

At the request of Mr. RIEGLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 136, a joint resolution to authorize the display of the POW-MIA flag on flagstaffs at the national cemeteries of the United States, and for other purposes.

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

SENATE RESOLUTION 116

At the request of Mr. ROTH, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 118

At the request of Mr. MCCAIN, the names of the Senator from Maine [Mr. MITCHELL], the Senator from North Carolina [Mr. SANFORD], and the Sen-

ator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Resolution 118, a resolution commending the agreement for the establishment of an American POW/MIA office in Hanoi, Vietnam, and recommending that such office be authorized to serve as a liaison between the families of Americans missing-in-action and the Government of Vietnam.

SENATE CONCURRENT RESOLUTION 35—RELATIVE TO RECONSTRUCTION OF KUWAIT

Mr. GLENN submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 35

Whereas the men and women of the Armed Forces of the United States, together with allied forces, have successfully liberated Kuwait, and the independence and sovereignty of Kuwait have been restored;

Whereas considerable damage has been done to the infrastructure, environment, and industrial capacity of Kuwait, and reconstruction of Kuwait's economy is currently underway;

Whereas the Government of Kuwait, Kuwaiti firms, and the United States Army Corps of Engineers are currently awarding contracts for supplies and goods and for engineering, consulting, and construction services for the rebuilding of Kuwait; and

Whereas the Government of Kuwait, Kuwaiti firms, and the United States Army Corps of Engineers have awarded and may award contracts for the rebuilding of Kuwait which provide the opportunity for substantial participation by United States small and disadvantaged businesses: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Government of Kuwait, Kuwaiti firms, the United States Army Corps of Engineers, and any other agency or entity of the United States Government should award contracts for the rebuilding of Kuwait with a preference given to any supplies or goods mined, produced, or manufactured in the United States and with a preference given to engineering, consulting, and construction services of firms established and doing business in the United States; and

(2) the Government of Kuwait, Kuwaiti firms, the United States Army Corps of Engineers, and any other agency or entity of the United States Government should encourage, to the maximum extent practicable, the participation of United States small businesses and disadvantaged businesses, including minority-owned businesses and women-owned businesses, in contracts for the rebuilding of Kuwait.

Mr. GLENN. Mr. President, I rise today to introduce a sense-of-the-Congress resolution encouraging the Government of Kuwait to award its reconstruction contracts to United States firms and manufacturers.

The Kuwaitis have said that they would like to direct a substantial portion of reconstruction contracts to American businesses. Nothing could be more appropriate.

After all, it was the United States which boldly and decisively deployed troops to contain Iraq when it appeared their tanks might turn south to the oilfields of Saudi Arabia.

It was the United States which masterfully assembled an unprecedented U.N. coalition to bring the economy of Iraq to its knees.

And it was the United States which led the U.N. coalition in the gulf conflict—first to an air campaign which crippled Hussein's war machine and then to a ground campaign which saw coalition troops take back Kuwait in a matter of days.

The battle for Kuwait is over. But the campaign to overcome the devastation has just begun.

American leadership and technology propelled the U.N. coalition to victory against Iraq. This same Yankee know-how and ingenuity should now be put to use in the rebuilding of Kuwait.

Action now is required to ensure that this happens.

Hundreds of my constituents in Ohio have contacted me, wanting to participate in the rebuilding of Kuwait. Unfortunately, information about how American businesses can participate has not been readily available.

We do know that the Kuwaitis have already awarded numerous contracts, many of them to American firms. At the same time, we also know that contracts have been awarded in a fashion which has left some eligible American firms in the cold.

Additionally, we know that the United States Steel Association recently reported that Kuwait has entered into agreements with Japan, Venezuela, and other countries to supply steel. Similar Kuwaiti purchases from South Korea have also been rumored.

My resolution provides that the awarding of contracts for the rebuilding of Kuwait should reflect the unparalleled magnitude of American military and economic support extended during the gulf conflict.

The United States was willing to fight for Kuwait. Now, Kuwait must be willing to be fair to the United States.

I am not saying that the Kuwaitis should do business solely with the United States. What I am saying is that the awarding of contracts should reflect that fact that Americans carried an enormous load in the liberation of Kuwait.

Free trade is fine. But expecting fair trade with Kuwait is not unreasonable.

An equally important part of my resolution encourages the participation of American small businesses, as well as minority and women-owned businesses, in the Kuwait reconstruction effort. There is much work to be done and we know that these businesses can contribute. I just want to make sure they have the chance to participate.

The reconstruction effort represents significant opportunities for small and

disadvantaged business involvement as prime contractors, subcontractors, and suppliers. I believe that this resolution sends a strong signal, and the right signal, that Congress wants small and disadvantaged to businesses to participate as fully as possible.

Mr. President, my resolution makes it known that no matter how the future contracting is conducted, be it through the Army Corps of Engineers, the Kuwaiti Government, or Kuwaiti businesses, Congress wants American firms, large and small, to play as big a role as possible.

What we are talking about here is partnership. In the gulf conflict, the United States was a leading partner with Kuwait in the liberation of their country. Now, with the fighting behind us, that same spirit of partnership needs to be maintained as the campaign begins to rebuild the nation of Kuwait.

SENATE CONCURRENT RESOLUTION 36—COMMENDING THE NATION'S FEDERAL CIVILIAN EMPLOYEES FOR THEIR CONTRIBUTIONS TO OPERATION DESERT SHIELD AND OPERATION DESERT STORM

Mr. AKAKA (for himself, Mr. ADAMS, Mr. BURDICK, Ms. MIKULSKI, Mr. SARBANES, and Mr. ROBB) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 36

Whereas American and Allied forces were resoundingly successful in carrying out their mandate to liberate Kuwait pursuant to United Nations Security Council Resolutions;

Whereas a key factor in bringing that outcome about was the transporting of over 500,000 United States troops, almost half a million tons of ammunition, and approximately 100,000 motorized vehicles to the Persian Gulf region, representing the most massive movement of troops, supplies, and materiel that the world has ever seen, and which could not have been achieved without the tireless efforts of this Nation's Federal civilian employees;

Whereas more than 4,000 Federal civilian employees were relocated to work in the Persian Gulf theater of operations, over 20,000 Federal civilian employees were called to active duty as reservists, and thousands of other Federal civilian employees in the United States and around the world contributed to the war effort in ways too many to enumerate;

Whereas Federal civilian employees, despite seemingly insurmountable logistical problems, unrelenting pressure, and severe time constraints, successfully accomplished what this Nation asked of them in a manner consistent with the highest standards of excellence and professionalism; and

Whereas Federal civilian employees are truly among the unsung heroes in Operation Desert Shield and Operation Desert Storm: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby—

(1) expresses its deepest gratitude to this Nation's Federal civilian employees for their contributions to Operation Desert Shield and Operation Desert Storm; and

(2) commends and congratulates this Nation's Federal civilian employees on a job superbly done.

SENATE CONCURRENT RESOLUTION 37—RELATIVE TO COMMERCIAL WHALING

Mr. KERRY (for himself, Mr. PELL, Mr. PACKWOOD, Mr. LIEBERMAN, and Mr. DODD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 37

Whereas whales, dolphins, and porpoises (cetaceans) are unique marine resources of great aesthetic and scientific interest and are a vital part of the marine ecosystem;

Whereas the International Whaling Commission adopted in 1982 an indefinite moratorium on commercial whaling, which was scheduled to go into effect in 1986, establishing zero global catch limits for eleven species of whales;

Whereas despite the moratorium on commercial whaling, thousands of whales have been killed since its inception by the commercial whaling nations;

Whereas there remain great uncertainties as to the true status of whale populations due to the difficulty of studying them, their slow reproductive rate, and the unpredictability of their recovery even when fully protected;

Whereas the consequences of removing whale populations from the marine ecosystem are not understood and cannot be predicted;

Whereas whales are subject to increasingly grave environmental threats from nonhunting causes, such as pollution, loss of habitat, increased shipping, oil and gas exploration, oil spills, and the use of driftnets and other nonselective fishing techniques, which underscore the need for special safeguards for whale protection;

Whereas, in addition, many of the more than 60 species of small cetaceans known as dolphins and porpoises are subject to a variety of increasing global threats, which include escalating direct hunts, incidental takes in purse seine nets, high seas driftnets, and gear used in local fisheries, and also widespread pollution and habitat destruction;

Whereas powerful moral and ethical questions have been raised regarding the killing of whales, dolphins, and porpoises for profit;

Whereas there is significant widespread support in the international community for the view that, for scientific, ecological, and aesthetic reasons, whales, dolphins, and porpoises should no longer be commercially hunted;

Whereas efforts made at the 1990 meeting of the International Whaling Commission to overturn the moratorium on commercial whaling were defeated; and

Whereas there is concern that some countries will again press at the 1991 International Whaling Commission meeting for an immediate resumption of commercial whaling on some stocks: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) United States policy should promote the maximum conservation and protection of whale, dolphin, and porpoise populations;

(2) toward that goal, the United States should work to strengthen and maintain indefinitely the current International Whaling Commission moratorium on the commercial killing of whales;

(3) the United States should work to strengthen the International Whaling Commission by reaffirming its competence to regulate whaling on all species of cetaceans, large and small, and should encourage the Commission to utilize the expertise of its Scientific Committee in relation to small cetaceans, to urgently consider the Committee's recommendations, and, on the basis thereof, to take appropriate action through resolutions and schedule provisions, where needed, to assure global protection for small cetaceans; and

(4) in so promoting the conservation and protection of the world's whale, dolphin, and porpoise populations, the United States should make the fullest use of diplomatic channels, appropriate domestic and international law, and all other available means.

• Mr. KERRY. Mr. President, I rise today with Senators PELL, PACKWOOD, DODD, and LIEBERMAN to introduce a concurrent resolution designed to maintain indefinitely the current International Whaling Commission [IWC] moratorium on the commercial killing of whales and protect and conserve the world's dolphins and porpoise populations. Later this month the IWC will be meeting for its annual negotiating session to discuss conservation and harvesting quotas for commercial whaling. Only with strong leadership will the international community continue to make progress in protecting these valuable marine resources. It is imperative that the United States again play a forceful role at the upcoming meeting of the International Whaling Commission to ensure that we achieve these very important conservation goals.

The IWC was established by 15 nations in 1946. It has since grown to 41 countries. The focus of the Commission has shifted in recent years from allocating quotas and issuing regulations to conserving and protecting whales and, more recently, dolphins and porpoises. This change in emphasis occurred as a result of severe declines in several whale populations and was manifested in increasingly stringent quotas.

The IWC's initial efforts were to protect the larger whales, as these stocks were the first to decline. But reducing quotas for these species caused whalers to shift into smaller species until these populations were also threatened.

Finally in 1982, IWC parties agreed that, beginning in 1986, a moratorium would be placed on all types of whaling, except for subsistence or scientific research. The United States played a prominent role in achieving the moratorium provision. Furthermore, the threat of a U.S. embargo has been one of the primary enforcement mechanisms that has made the provision effective.

Despite these successes, whaling has not yet been eliminated. Thousands of whales are killed each year because a few nations continue to harvest under the guise of scientific research. Some have calculated that as many as 14,000 whales have been slaughtered since 1986. Furthermore, attempts to continue whaling are expected to arise at the IWC annual meeting this month. Iceland is likely to request a commercial harvest quota for minke and fin whales. The United States successfully blocked a similar proposal at last year's meeting. Japan and Norway want to continue their scientific harvests into the indefinite future.

Mr. President, whales are a global treasure. They are the largest animals on Earth, have evolved over millions of years and are at the top of the ocean food chain. They inspire the many that see them, either at an aquarium, or on a whale watching expedition or just by looking out to sea. There is strong support for their protection in the American public and the international community.

This resolution proclaims that the United States should: Develop policies to promote conservation and protection of whales, dolphins and porpoises; work to strengthen and maintain indefinitely the current IWC moratorium; work to strengthen the IWC; and fully use diplomatic channels, appropriate domestic and international law, and all other available means to achieve these goals.

I urge my colleagues to join with me in sponsoring this important resolution. •

SENATE RESOLUTION 122—CONGRATULATING SENATOR GEORGE SMATHERS ON THE NAMING OF THE GEORGE A. SMATHERS LIBRARY AT THE UNIVERSITY OF FLORIDA

Mr. GRAHAM (for himself and Mr. MACK) submitted the following resolution; which was considered and agreed to:

S. RES. 122

Whereas Senator George Armistead Smathers of Florida was a Member of Congress for 22 years, including 2 terms in the House of Representatives and 3 terms in the Senate;

Whereas, during his 3 terms in the Senate, Senator Smathers served as Secretary to the Democratic Conference, as an Assistant Democratic Floor Leader, as a member of the Democratic Policy Committee, as Chairman of the Senate Democratic Campaign Committee, and as a member of the Senate Committees on Commerce, Finance, and Foreign Relations, and as chairman of the Select Committee on Aging and the Select Committee on Small Business;

Whereas Senator Smathers served his state and his country in the Congress, with dedication and distinction, before retiring at the end of his term in 1969; and

Whereas Senator Smathers served his country in the United States Marines in

World War II, and saw duty in the South Pacific: Now, therefore, be it

Resolved, That the Senate congratulates and extends its best wishes to Senator George Armistead Smathers on the occasion of the tribute being paid to him in the naming of the George A. Smathers Library by his alma mater, the University of Florida, in Gainesville, Florida.

SENATE RESOLUTION 123—RELATING TO STATE TAXES FOR MAIL ORDER COMPANIES

Mr. KASTEN submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 123

Whereas it is the right of the States under the United States Constitution to levy taxes on their residents and to require companies in the State to collect those taxes, but it is not the right of the States to require companies located in other States to collect those taxes;

Whereas it is not the role of the mail-order industry to be the tax collector for each of the fifty State treasuries;

Whereas this kind of unwarranted restriction of interstate commerce can only result in an excessive burden on taxpayers, and is an impediment to mail-order companies;

Whereas collecting and maintaining records on the sales taxes would result in expenses which would be passed along in the form of higher prices to consumers;

Whereas this proposal would complicate the lives of those who shop by catalog, a group that includes more than half of the United States adult population;

Whereas those who use the mail to make catalog purchases would be required to wade through a maze of State and local tax rates that often affect different items differently in trying to determine the applicable tax and then actually figure the amount due;

Whereas this is a burden to which retail customers are not subjected, and is terribly unfair;

Whereas the collection of taxes in this manner would be grossly inefficient compared with the collection of taxes at the cash register;

Whereas the handicapped, the elderly, rural families, and single parents are typical consumers of mail-order products and thus would be particularly burdened by this proposal;

Whereas small mail-order companies will not be able to comply, and their services will be lost to their consumers;

Whereas there will be a long period of litigation with the overhanging threat that mail-order companies that choose to fight this unfair legislation may be liable for the payment of retroactive taxes should the courts uphold proposed legislation; and

Whereas to allow any State to make laws that reach across State lines is a dangerous precedent: Now, therefore, be it

Resolved, That any proposed legislation which would require mail-order companies to collect out-of-State sales taxes should be rejected.

• Mr. KASTEN. Mr. President, I rise today to submit a resolution opposing the taxation of interstate mail-order purchases.

Mail-order shopping is a convenience for millions of Americans, and it is a necessity for many, including the elderly, the disabled, families who live in

rural areas, and single parents. For these groups it is often difficult to get to a store to buy essential goods, such as medications and health supplies, clothing and other items.

In recent years, some in Congress have proposed legislation that would turn mail-order companies into tax collectors for each and every one of our States. I think Americans already pay enough taxes, and if they buy something from a mail-order company in another State, they should not have to pay sales taxes on the purchase to their own State.

These proposals would harm the 88 million Americans who shop by mail, it would cost jobs in the mail-order business, and it would be unconstitutional.

The Supreme Court has ruled twice in the last 50 years that States have no right to ask out-of-State sellers to collect State sales taxes. These rulings are based on the liberty of interstate commerce guaranteed by the Constitution.

The Founding Fathers established that liberty for a very important reason. They knew that high tariffs imposed by the several States would prove a serious obstacle to efforts to unify the United States, and to create a dynamic and growth-oriented national economy.

Unfortunately, some in Congress have proposed to change current law and impose an unprecedented new system of taxation on everyone who shops by mail.

Consumers trying to make mail-order purchases would be forced to plow through an intricate maze of State and local taxes—taxes that often affect different items differently—to try and determine the applicable tax, and then figure the amount due.

My home State of Wisconsin is host to some of America's biggest and best mail-order companies. I've talked to low- and middle-income people back home who probably couldn't make ends meet if they lost the employment opportunities provided by these companies.

Mr. President, any proposal to require mail-order companies to collect out-of-State sales taxes should be called an abuse tax because it abuses consumers, businesses, the economy, and the U.S. Constitution.

I am introducing today a Senate resolution disapproving the abuse tax in the strongest possible terms. I call on all of my colleagues with an interest in the health of the mail-order industry, and the millions of consumers who rely upon it, to join me as a cosponsor.●

SENATE RESOLUTION 124— HONORING ANDRIS SLAPINS

Mr. MURKOWSKI submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 124

Whereas Andris Slapins was a renowned arctic filmmaker who made outstanding contribution to the documentation of the customs, folklore and history of northern peoples including the Yupik peoples of Southwest Alaska;

Whereas Mr. Slapins was one of the first Soviet filmmakers to take advantage of the changes which occurred in the Soviet Union by including contributing to "Crossroads of Continents: Cultures of Siberia and Alaska," a project produced jointly by the Smithsonian and the U.S.S.R.;

Whereas Mr. Slapins was a good friend of the native peoples of Alaska, the Soviet Far East, and Labrador who provided invaluable insight into their cultures and brought them to the attention of the world through his films;

Whereas Mr. Slapins had fully entered into the world community and was engaged in many projects that would have benefited mankind;

Whereas Mr. Slapins was an ardent but non-militant Latvian nationalist who produced many valuable films about Latvian and Baltic cultural traditions and was considering filming the Soviet "Black Berets" troops in their Riga barracks;

Whereas Mr. Slapins was tragically killed by Soviet "Black Beret" troops on January 20, 1991 in Riga, Latvia in the brutal Soviet crackdown on the Latvian democracy movement;

Whereas Alaskans, northern peoples, and all people of the free world will mourn the senseless loss of a man who contributed much not only to ethnographic cinematography, but also to the quest for freedom and a greater understanding between Americans and the peoples of the Soviet Union: Now, therefore, be it

Resolved, That the United States Senate honors Andris Slapins for his extraordinary contributions to our understanding of northern peoples and his courage to seize opportunities in the face of great personal risk.

Mr. MURKOWSKI. Mr. President, I rise today to offer a resolution to honor Andris Slapins. Mr. Slapins was a filmmaker and photographer associated with the Riga Video Center in Latvia. He was one of the first to benefit from the political changes which took place in the Soviet Union in 1986 and his films were known throughout the world. The policy of glasnost allowed him to make contact with anthropologists, folklorists and filmmakers outside of Latvia. His work promised a greater understanding and cooperation not only between the Soviet Union and the West, but between the many peoples he studied as well.

Mr. Slapins is best known in North America for his contribution to the Smithsonian Institute's "Crossroads of Continents: Cultures of Siberia and Alaska," a joint exhibit with the Institute of Ethnography of the U.S.S.R. He contributed two feature films for this show: "Chukotka: Coast of Memories" about the Chukchi and Eskimo peoples of the Soviet coast on the Bering Strait and "Times of Dreams: Siberian Shamanism." He also collaborated with U.S. filmmakers on another feature film. Without his help, little knowl-

edge of the native peoples of the Soviet Far East would have come to the West.

Mr. Slapins was generous with his talent and his friendship. In 1989 he filmed among the Yupik peoples of southwest Alaska in the village of Chevak. He struck up permanent friendships with many people, including John Pingayak of Chevak. He is fondly remembered as a sensitive and generous man by all the people he met in Alaska.

Mr. Slapins began his film career in Latvia as a cameraman for "The Constellation of Riflemen" about Lenin's last surviving Red Latvian snipers. This film, which showed these men's disappointment in the development of the Soviet state may have marked Slapins and his colleagues as targets. Mr. Slapins went on to produce many films about Latvian and Baltic folklore and cultures. At the time of his death he was involved in projects with filmmakers, anthropologists and environmentalists around the world. He and a colleague, Yuris Podnieks, discussed the idea of filming the Soviet "Black Beret" troops in their Latvian barracks a few days before his death.

Andris Slapins was murdered by Soviet "Black Beret" troops on January 20, 1991 in Riga, Latvia during the attack on the headquarters of the Latvian Interior Ministry. Witnesses said that his group was not in the line of fire and seemed to have been deliberately targeted. There can be no justification for this senseless killing of a man that shared his vision and talent with so many.

Andris Slapins work among northern peoples across the continents will long remain landmarks in ethnographic film. I join the people of Chevak, Alaska, and the world in mourning the senseless loss of this man.

AMENDMENTS SUBMITTED

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

BYRD AMENDMENT NO. 237

Mr. BYRD submitted an amendment intended to be proposed by him to the bill (H.R. 2251) making dire emergency supplemental appropriations from contributions of foreign governments and/or interest for humanitarian assistance to refugees and displaced persons in and around Iraq as a result of the recent invasion of Kuwait and for peacekeeping activities, and for other urgent needs for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 3, line 11, delete: "DEFENSE COOPERATION ACCOUNT" and all that follows through the period on page 3, line 24.

**HOLLINGS (AND RUDMAN)
AMENDMENT NO. 238**

Mr. BYRD (for Mr. HOLLINGS, for himself and Mr. RUDMAN) proposed an amendment to the bill H.R. 2251, supra, as follows:

On page 10, after line 15, insert:

CHAPTER IV

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

Of the funds appropriated under this heading in Public Law 101-515 and Public Law 102-27, \$159,325,000 shall be available to carry out export promotion programs notwithstanding the provisions of section 201 of Public Law 99-64.

THE JUDICIARY

**COURTS OF APPEALS, DISTRICT COURTS AND
OTHER JUDICIAL SERVICES**

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this heading in Public Law 101-515, \$3,262,000 is hereby rescinded.

DEFENDER SERVICES

For an additional amount for "Defender Services", \$8,000,000, to remain available until expended.

On page 10, line 16, following "CHAPTER" strike "IV" and insert "V" and renumber sections accordingly.

**BURDICK (AND COCHRAN)
AMENDMENT NO. 239**

Mr. BYRD (for Mr. BURDICK, for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2251, supra, as follows:

On page 11, line 2, delete: "are off budget." and insert in lieu thereof: "are within the limits of the Budget Enforcement Act of 1990."

"SEC. . Notwithstanding any other provision of law, not to exceed 15 per centum of the funds made available for any title of the Agricultural Trade Development and Assistance Act of 1954 by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991, may be used for purposes of title II of the Agricultural Trade Development and Assistance Act of 1954."

**LEAHY (AND OTHERS)
AMENDMENT NO. 240**

Mr. BYRD (for Mr. LEAHY, for himself, Mr. KASTEN, and Mr. BYRD) proposed an amendment to the bill H.R. 2251, supra, as follows:

On page 4, line 24, strike all after the period through the period on page 9, line 12, and insert in lieu thereof:

only from the interest payments deposited to the credit of such account, \$150,500,000, which shall be available only for transfer by the Secretary of Defense to "International Disaster Assistance", "Migration and Refugee Assistance", "United States Emergency Refugee and Migration Assistance", and "Contributions to International Peacekeeping Activities", as follows:

**FUNDS APPROPRIATED TO THE
PRESIDENT**

**BILATERAL ECONOMIC ASSISTANCE
INTERNATIONAL DISASTER ASSISTANCE
(INCLUDING TRANSFER OF FUNDS)**

For an additional amount for "International Disaster Assistance", \$67,000,000, of which \$27,000,000, shall be derived by transfer of interest payments from the Defense Cooperation Account, to remain available until expended, which amount shall be used for emergency humanitarian assistance for Iraqi refugees and other persons in and around Iraq who are displaced as a result of the Persian Gulf conflict, and for other international disaster assistance purposes outside the Persian Gulf region: *Provided*, That assistance under this heading shall be provided in accordance with the policies and authorities contained in section 491 of the Foreign Assistance Act of 1961.

DEPARTMENT OF STATE

**MIGRATION AND REFUGEE ASSISTANCE
(TRANSFER OF FUNDS)**

For an additional amount for "Migration and Refugee Assistance", \$75,000,000, to be derived by transfer of interest payments from the Defense Cooperation Account: *Provided*, That in addition to amounts otherwise available for such purposes, up to \$250,000 of the funds made available under this heading may be made available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further*, That funds made available under this heading shall remain available until September 30, 1992.

**UNITED STATES EMERGENCY REFUGEE AND
MIGRATION ASSISTANCE FUND
(INCLUDING TRANSFER OF FUNDS)**

For an additional amount for the "United States Emergency Refugee and Migration Assistance Fund", \$68,000,000, of which \$23,000,000, shall be derived by transfer of interest payments from the Defense Cooperation Account to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 that would limit the amount of funds that could be appropriated for this purpose.

**INTERNATIONAL ORGANIZATIONS AND
CONFERENCES**

**CONTRIBUTIONS TO INTERNATIONAL
PEACEKEEPING ACTIVITIES
(TRANSFER OF FUNDS)**

For an additional amount for "Contributions to international peacekeeping activities", \$25,500,000, to be derived by transfer of interest payments from the Defense Cooperation Account, to remain available until September 30, 1992.

**ECONOMIC SUPPORT FUND
(RESCISSION)**

Of the unearmarked funds previously appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513), under the heading "Economic Support Fund", \$85,000,000 is hereby rescinded.

GENERAL PROVISIONS—CHAPTER II

SEC. 201. The authority provided in this chapter to transfer funds from the Defense Cooperation Account is in addition to any other transfer authority contained in any other Act making appropriations for fiscal year 1991: *Provided*, That the costs for which

transfers are provided herein are costs associated with Operation Desert Storm.

SEC. 202. Funds transferred or otherwise made available pursuant to this Act may be made available notwithstanding any provision of law that restricts assistance to particular countries.

SEC. 203. Funds transferred or otherwise made available pursuant to this chapter for International Disaster Assistance and the United States Emergency Refugee and Migration Assistance Fund may also be used to reimburse appropriations accounts from which assistance was provided prior to the enactment of this Act.

SEC. 204. Amounts obligated for fiscal year 1991 under the authority of section 492(b) of the Foreign Assistance Act of 1961 to provide international disaster assistance in connection with the Persian Gulf crisis shall not be counted against the ceiling limitation of such section.

SEC. 205. The value of any defense articles, defense services, and military education and training authorized as of April 20, 1991, to be drawn down by the President under the authority of section 506(a)(2) of the Foreign Assistance Act of 1961 shall not be counted against the ceiling limitation of such section.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing to determine the effect current wetlands regulations are having on small business. The hearing will take place on Thursday, May 16, 1991, at 9:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Galen Fountain of the Small Business Committee at 224-5175.

**AUTHORITY FOR COMMITTEES TO
MEET**

**COMMITTEE ON BANKING, HOUSING, AND URBAN
AFFAIRS**

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be allowed to meet during the session of the Senate, Thursday, May 9, 1991, at 10 a.m. and continuing at 2:15 p.m. to conduct a hearing on modernizing the financial system.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SUBCOMMITTEE ON EDUCATION, ARTS, AND
HUMANITIES**

Mr. HARKIN. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, May 9, 1991, at 10:45 a.m., for a hearing on the Higher Education Act reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HARKIN. Mr. President, I ask unanimous consent that the Commit-

tee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, May 9, 1991, at 9:30 a.m., for a nomination hearing on David Kearns to be Deputy Secretary of Education.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND REGULATION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation be authorized to meet on Thursday, May 9, 1991, at 9:30 a.m., on the subject: quality and limitations of the S-night homeless count.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH, AND DEVELOPMENT

Mr. HARKIN. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, May 9, beginning at 9:30 a.m., to conduct a hearing on issues related to the use and application of lawn care chemicals.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation, be authorized to meet during the session of the Senate on May 9, 1991, at 2 p.m., on the failure of Executive Life Insurance Co.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 9, at 2 p.m., to hold a hearing on the Middle East: regional economic issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. HARKIN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet on Thursday, May 9, 1991, at 2 p.m., to receive testimony on nuclear weapons issues, in review of the fiscal years 1992-93 national defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on May 9, 1991, beginning at 2 p.m., in 485 Russell Senate Office Building, on the impact of the Supreme Court's ruling in *Duro versus Reina* on the administration of justice in Indian country and on S. 962 and S. 963, legislation to reaffirm the inherent authority of tribal governments to exercise criminal jurisdiction over all Indian people on reservation lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HARKIN. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., May 9, 1991, to consider S. 341.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. HARKIN. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., May 9, 1991, to receive testimony on S. 395, a bill to establish the Department of Energy's fast flux test facility [FFTF] in Washington State as a research and development center to be known as the research reactor user complex.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE ASTRONAUTS MEMORIAL

• Mr. MACK. Mr. President, on Thursday, May 9, 1991, the citizens of the State of Florida will formally present the Astronauts Memorial at the John F. Kennedy Space Center to the American people.

This memorial, funded entirely by donations and fundraising efforts in Florida, is dedicated to honor the 15 astronauts who have died in the line of duty. The 15 include: 7 from the space shuttle *Challenger*, 3 from the fire aboard Apollo 1 during a launch rehearsal, 4 killed from T-38 training accidents, and most recently, the death of Sonny Carter in the crash of a commuter plane on April 5.

The U.S. space program represents a tremendous intellectual achievement in the history of mankind, fostering an unprecedented evolution in science and technology and leading to a better understanding of the universe.

These astronauts have demonstrated the highest level of courage and heroism by giving their lives to a cause for

the benefit of all humanity. Yet I urge my colleagues, and all Americans, to not only remember these 15 individuals as astronauts only. Remember them as engineers, aviators, scientists, and yes, even a schoolteacher. If we can remember these 15 men and women as not only astronauts, but 15 individual Americans like you and me, who stepped forward at the right moment to become a part of history, then we can truly appreciate the sacrifice they and their families have made to this Nation. •

DEDICATION CEREMONY, INDIAN AFFAIRS COMMITTEE ROOM

• Mr. DECONCINI. Mr. President, on April 18, 1991, the distinguished chairman of the Senate Committee on Indian Affairs, the senior Senator from Hawaii, dedicated the hearing room of the committee as the Room of the First Americans. In honor of the event, the Navajo Nation presented a beautiful Navajo rug woven by Miss Lena Gorman, a young Navajo weaver from the State of Arizona. During the dedication ceremony, I made a statement recognizing Miss Lena Gorman and the weavers of the Navajo for the fine tradition which they continue to prize.

I am proud to have the Southwest represented by such a magnificent Navajo rug. The Navajo people are known for the beautiful rugs they have produced since the 1700's. As the chairman indicated, this rug known as a Burntwater, is named after the community of Burntwater, AZ. The women of this community developed the unique Burntwater design by adapting oriental rug patterns to Navajo weaving techniques. They employ vegetable dyes made from local native plants to achieve the wonderful pastel effect seen in this rug.

Mr. President, this is only one example of the dynamic artistry demonstrated by Navajo weavers over the years. Rug weaving gives them a significant source of creative expression as well as family income. The cultural and economic survival of Navajo families can be, in good part, attributed to the creative productivity of Navajo weavers.

Today, they are well represented by the unequalled beauty of Lena Gorman's rug. I want to take this opportunity to pay my respect and homage to Ms. Lena Gorman, who represents a new generation of weavers, and all the weavers of the Navajo Nation for presenting the committee and the Senate with this exquisite gift.

I also want to express my gratitude to Mr. Allan Houser for his most generous gift. His artistic vision beautifully captures the aspirations of Native Americans and will serve as a sensitive reminder of our responsibility to all first Americans.

I commend the chairman for his outstanding leadership and for giving this Senate committee the stature and respect it deserves.●

SOVIET ARMENIA

● Mr. KERRY. Mr. President, I rise today to express my outrage at what is happening to the Armenian people in the Soviet Union. In the last week, Soviet Interior Ministry troops have attacked and occupied several villages in Soviet Armenia near the Azerbaijani border. At the same time, Soviet and Azerbaijani units have surrounded the predominantly Armenian district in Azerbaijan. Reports indicate that nearly 50 people have died and many others have been wounded as a result of these actions.

I fear that what we are witnessing is similar to what happened in the Baltics earlier this year. Soviet officials claim that the troops are attempting to disarm illegal Armenian military units and stop ethnic violence from escalating. But there are strong indications that the Soviet Government is using military coercion to pressure the Armenian people because the Armenian Republic has refused—for legitimate reasons—to take part in negotiations on a new union treaty. If this is true, Mr. President, it is totally unacceptable and must be stopped immediately.

I call on President Gorbachev to withdraw Soviet troops from the Armenian villages and cease these attempts to intimidate the people of Armenia. I also urge him to devote his personal attention to ending the virtual civil war that has been waged over the last three years between Armenia and Azerbaijan and to ensuring that the rights of the Armenians in Azerbaijan are protected.

Given the severe economic problems facing the Soviet Union, it is senseless for the Soviets to be expending so much energy and resources on squashing independence movements in the republics. Rather, the Soviet leadership should be focusing on finding real solutions to these economic problems. The continued oppression of the Armenians and peoples of other republics only signals to the rest of the world that perestroika is an illusion—not a reality.

In addition, it is extraordinarily difficult to consider providing any form of economic assistance if it will not be used to improve the lives of the Soviet people or further the process of economic liberalization and democratic reform. However, one is torn between the desire to see reform in the Soviet Union and the specter of greater economic hardship for its citizens and instability overall. Therefore, it is important to ensure that if such assistance is to be given, there will be strong conditions attached. One of those conditions should be that the Soviet Government cease its use of military and

political coercion against the people of Armenia and the other republics that have pushed for some form of independence.

Mr. President, let me conclude by making a plea to my colleagues and the people of this country not to forget the Soviet Armenians and the problems they face. They are still struggling to recover from the devastation caused by the 1989 earthquake, which in conjunction with the influx of 300,000 refugees fleeing the oppression in Azerbaijan, left nearly half a million people homeless and destroyed or damaged 50 percent of the Republic's schools. Moreover, they have confronted chronic shortages of food, gasoline, and electricity, resulting in large part from a rail blockade imposed by Azerbaijan. Throughout these struggles, the Armenian people have shown the courage to endure. We must not abandon them now, particularly when their current plight carries with it the memories of Armenian genocide.●

PUBLIC LAND MANAGEMENT: ATTENTION TO WILDLIFE IS LIMITED

● Mr. CRANSTON. Mr. President, for more than 3 years the General Accounting Office has been reviewing, at my request, wildlife management practices by Federal agencies on Federal lands. In response to my request the GAO has previously issued two reports on this topic. The first report, in 1989, was entitled "California Desert: Planned Wildlife Protection and Enhancement Objectives Not Achieved." A second report—"Wildlife Management: Effects of Animal Damage Control Program on Predators"—was released in 1990.

I am today making public the third and final GAO report on Federal wildlife management prepared at my request. These three reports comprise one of the most thorough documentations of the policies and actions of Federal agencies regarding resident wildlife on public lands that has yet been assembled.

In my request of October 20, 1987, I asked the GAO to conduct a comprehensive study of wildlife management by the Bureau of Land Management and the U.S. Forest Service. The BLM and the Forest Service together manage 461 million acres of public lands. On these lands are some 3,000 fish and wildlife species, many of which are threatened with extinction. Also on these lands are domestic mineral reserves and over half the Nation's standing softwood timber. Millions of cattle and sheep graze here. Because these lands have many different users, we in the Congress have directed that land management agencies manage the resources under their control using the principles of multiple use and sustained yield. As land use decisions are

made, wildlife needs are to be balanced with consumptive, commercial uses so that all resources are conserved for future generations.

As I wrote to the GAO, "I specifically wish to determine whether the congressional mandate to protect wildlife as one of the lands' multiple uses is appropriately considered in the multiple use planning processes of both BLM and the Forest Service."

Based upon the evidence in these reports, the answer is "No."

The first GAO report in the three-part series focused on the management of wildlife in the California desert. Five sentences from the report summarize the findings:

While BLM considered wildlife needs during its overall land use planning process for the California Desert, the wildlife protection objectives envisioned in the overall land use plan have not been achieved. More than 8 years after the plan was issued, nearly one-half of the required wildlife management implementation plans have not been developed. In addition, BLM's progress in implementing completed plans has been limited. Nearly half of the wildlife-related actions called for in the completed plans GAO reviewed have not been started and many others have been only partially completed. Actions not completed include many that are considered critical by BLM biologists.

Shortly after this GAO report was made public in 1989, the indicator species for the health of the desert—the desert tortoise—was declared threatened with extinction, under provisions of the Endangered Species Act.

The second report in the series examined Federal land management practices as they affect predator species. As I told the GAO, "I am keenly interested in the Federal land management agencies' awareness of the indispensable balance between predator and prey, and whether management practices demonstrate an understanding and respect for such a balance." The GAO concluded as follows: "While the Federal Government has an interest in preserving wildlife, no comprehensive Federal policy exists specifically for managing predator species."

Actually, the Government has a policy of destroying predators. The only Federal program the GAO could find to study was the so-called Animal Damage Control Program, run by the Department of Agriculture in mostly Western States for the purpose of eradicating predators in areas grazed heavily by livestock. The ADC is a cattle and sheep protection program, highly controversial for both its purpose and its methods. It relies heavily on lethal and environmentally damaging ways of killing predators. What is clear from this report is that nowhere in law or in policy is there a recognition—stated or implied—that the interrelationship of predator and prey species is a vital factor in sound wildlife management policy.

The report I release today completes the overview of wildlife management policies and practices by Federal agencies that I have requested of the GAO. The gist of the GAO's conclusions is reflected in the title of the report itself: "Public Land Management, Attention to Wildlife Is Limited."

The GAO made several important findings:

One, the Bureau of Land Management and the Forest Service devote to wildlife just a fraction of total program staffing and funding. The GAO found that in recent years wildlife programs have received between 3 and 7 percent of available agency funds. In the period studied, minerals, timber, and range programs received up to 33 percent of the available funding for the BLM and up to 37 percent for Forest Service timber programs. The allocation of staff resources was similar. Further, the study found that many of the wildlife protection recommendations of agency biologists never make it into final land use plans, and even where these are included, they are usually implemented partially or not at all. In fact, of the 1,130 wildlife-related action plans reviewed, about 39 percent had not been started at all, 22 percent had been only partially completed, and 33 percent had not been fully completed.

Two, the GAO concluded that "deference to grazing, logging, mining and other consumptive interests" is a principal reason why the agencies give short-shrift to wildlife. "BLM, in particular," says the GAO, "has been concerned with satisfying the needs of these interests to the detriment of other land uses and the overall health of the land itself."

Three, in enacting multiple-use and sustained-yield principles into law, the Congress has not been sufficiently specific as to the precise level of consideration and protection of wildlife. As a result, the agencies apply their own priorities, which frequently put wildlife near the bottom rung of the planning ladder.

Four, the Forest Service and the BLM have not monitored either habitat conditions or population trends for the thousands of wildlife species in their charge. Hence it is difficult to assess the overall health of wildlife on public lands or the effectiveness of management efforts. Rarely do the agencies know whether even limited wildlife protection and enhancement efforts are working.

In its conclusions, the GAO presents some matters for congressional consideration.

According to the GAO, the Congress could be more precise as to what it expects the agencies to do regarding wildlife, such as requiring agencies to maintain viable populations of species on their lands. The GAO also recommends that Congress provide specific direction and funding to the agen-

cies to ensure that the necessary wildlife and habitat monitoring information is both collected and analyzed, in order that the status of wildlife on public lands be assessed as well as the effect of management actions. These results should be reported to the Congress.

Finally, the GAO suggests that the Congress consider revising the Oregon and California Lands Act to require multiple-use and sustained-yield management for various resources, including wildlife, on the lands covered under the act.

Mr. President, the findings of this report have been echoed in a number of other reports and congressional hearings in recent months. They illustrate a Federal agency policy trend with respect to wildlife that has persisted for at least the last decade. That trend is a near constant attempt to exploit public lands not only at the expense of resident species, but at the expense of the lands themselves.

It is a simple, powerful fact that the condition of wildlife is directly related to the condition of the land. And while we can read these GAO reports as evidence of a troubling inattention to wildlife, on a much broader level they are alarming documentations of how lands held in trust for the American public are being abused.

At the heart of this issue are fundamental questions:

Who controls the public lands?

For whom are they managed?

Are ranchers, miners, and timber interests the primary beneficiaries of land management—with short-range, private economic benefit the prime criterion?

Or are public lands truly the province of us all—and of generations to come?

Clearly, it is the long-range health of the land and all its species that is the ultimate management criteria. But that is not the criteria that is being applied.

What makes this discrepancy so galling is what it reveals about the gap between what environmental policy says and what it does. America's public commitment to the environment is strong, vocal, and growing. As a result, our environmental statutes are the envy of many a nation. Our understanding of the importance of wildlife has led us to articulate a passionate concern for biological diversity. We have enacted laws to protect any species from extinction. Yet when it comes to carrying out a clear, statutory mandate for the preservation of wildlife on public lands the managing bureaucracy is, at best, dysfunctional. Economic interests win, wildlife loses. Americans deserve better.

There are steps the Congress can take, and certainly the agencies can do better even without intervention by the Congress. But Government policy reflects the thinking of those that

make it. Judging from what is actually happening on the public lands, our Government needs to transform its view of nature.

What has brought our civilization to the brink of environmental disaster is an exploitive view of nature as simply a resource. This attitude is at the root of our throwaway consciousness. It is the prime reason for the disappearance of species, the fouling of air and water, the bulldozing of rainforests, and holes in the ozone layer.

If we truly want to save the Earth and ourselves we must come—quickly—to the simple realization that all species, including humanity, are interdependent, existing in a vital relationship that is sustainable both by design and of necessity.

In Government policy we must walk our talk.

If we are unwilling to set an example on our own public lands, Mr. President, what hope do we have to lead a shift in environmental consciousness in the rest of the world?*

ASIAN PACIFIC AMERICAN HERITAGE MONTH

* Mr. AKAKA. Mr. President, as the only Member of Congress of Hawaiian and Chinese ancestry, I am privileged today to mark Asian Pacific Heritage Month.

Ten years ago, a small group of concerned citizens convinced my good friend, Representative FRANK HORTON, to introduce the first resolution proclaiming Asian Pacific American Heritage Week. He was joined in this endeavor on the Senate side by our colleague, Spark Matsunaga.

Last year, Asian Pacific Heritage Week was expanded into a month-long celebration commemorating the many contributions of Asian and Pacific islanders, including those of my friends and colleagues Senator DANIEL K. INOUE, sponsor of this year's joint resolution, and Representative PATSY MINK, NORMAN MINETA, BOB MATSUI, ENI FALEOMAVAEGA, and BEN BLAZ. And, we should also honor the contributions of the late Senator Matsunaga by continuing his gracious legacy to promote world brotherhood.

Mr. President, I have always considered myself fortunate to represent the great State of Hawaii where Asian Pacific Americans have achieved noticeable and notable economic, educational, and social equality. It was not always this way. Many of Hawaii's Asian Pacific Americans are the sons and daughters of immigrants. During the 1950's, a revolution began when young World War II Asian veterans returned home to Hawaii confident that they were equal to any American. Through the GI bill, they entered many professions—such as law, education, and Government service—and they ran for public office.

This quiet revolution, which took place in Hawaii nearly 40 years ago, not only empowered Asian Americans but also provided opportunities for Pacific islanders as well.

Now in the 1990's, Asian Pacific Americans have the potential to initiate change. The 1980 census showed that Asian Americans, including Pacific islander Americans, numbered 3.7 million or 1.6 percent of the U.S. population. By 1985, this same group had increased to about 5.9 million or 2.5 percent of the population. The 1990 census shows that Asian Pacific Americans represent the fastest growing ethnic group in America.

Simply put, Asian Pacific Americans will have a significant cultural, social, and economic impact on this country.

On Monday, I spoke before the Federal Asian Pacific American Council Congressional Conference, which I hosted with NORM MINETA. The more than 300 attendees, representing various agencies of the Federal Government, knew that many of their achievements were accomplished through education, hard work and perseverance—all of which have been ingrained in our cultures for centuries.

But for every success story, there are many honorable men and women who have been or continue to be victimized by injustice and discrimination. Like other minorities in business or government, Asian Pacific Americans often hit an invisible barrier, a glass ceiling if you will, which stops the ascent of those in mid-level positions. Being left on the next-to-the-top rung does nothing to diminish the frustration of being unfairly denied the pinnacle of the corporate or government ladder.

Unfortunately, this form of discrimination is difficult to legislate against, but there are Federal laws that attempt to minimize the effect of the glass barrier. I look forward to next Thursday's meeting of the Governmental Affairs Committee, which will receive a GAO report on minority discrimination in the Federal Government.

I know, however, that discrimination is not confined to schools or jobs—it exists everywhere. In closing I would like to share with you the case of Bruce Yamashita, a recent law school graduate from Hawaii who hoped to become an attorney in the Marines. Dismissed from the Marine Corps Officer Candidate School with an unsatisfactory rating only days before his expected graduation, Bruce claimed harassment and racial discrimination by his instructors and filed a formal application to correct his military record.

Affidavits confirm Mr. Yamashita's claims of discrimination. A Marine officer said, "I can verify that from the very first day of OCS, Candidate Yamashita was subjected to many derogatory racial remarks and unfair treatment. He was under more scrutiny

than any other candidate in the entire company."

Bruce Yamashita did not come up against a glass ceiling—he hit a stone wall. I am investigating this matter both as his U.S. Senator and as a member of the Senate Governmental Affairs Committee. In fact, I intend to invite him to testify at a Governmental Affairs Committee hearing early this summer, which will serve as a follow up to the May 16 hearing on discrimination in the Federal Government.

We must continue to sensitize the citizens of this Nation to the contributions that Asian Pacific Americans have made to our country. I urge my colleagues to join me in this noble endeavor. •

PRESIDENT SERRANO OF GUATEMALA RESPONDS

• Mr. CRANSTON. Mr. President, I would like to share with my colleagues the contents of a letter that President Jorge A. Serrano of Guatemala recently sent to me. His letter outlines his administration's plans for bringing peace to Guatemala and for rectifying the impunity enjoyed by human rights offenders in the Guatemalan military.

I thank President Serrano for his candid and timely response. He inherited a heavy burden, and leading his country out of turmoil will not be an easy task. I find his prescription for peace and justice promising.

In the meantime, the United States must monitor the speed and efficacy with which the new administration moves to resolve the number of unsettled brutality cases, particularly those involving United States citizens and Guatemalan human rights activists. Real reform can only come from a commitment to prosecuting all suspects in these cases. Until these incidents are thoroughly investigated and the culprits are prosecuted, Guatemala's international image will remain stained as a place of violence and human rights abuse.

I ask that President Serrano's letter to me be printed in the RECORD.

The letter follows:

PRESIDENCIA DE LA REPUBLICA,
Guatemala, May 3, 1991.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRANSTON: In answer to your letter of April 17, 1991, also signed by a number of distinguished United States Senators, I wish to express my gratitude for your interest in Guatemala and its unfortunate human rights problems.

As you mention in your letter, I confirm to you my total dedication to bringing and end to the bloodshed by taking decisive measures of which most of them are now underway. Above all, the centerpiece of my policy is represented by my initiative for total and lasting peace within the insurgent groups. That in itself will prevent further abuse and violation of the rights of our citizens.

As the problems you point out in the Quiche area, a section of my country intensely hurt by armed confrontation, please feel assured that I have already ordered an investigation and will pursue judicial action against those accused of these crimes. In fact today I can report that all suspects are in Police custody.

It is very difficult to change a culture of abuse and death that has developed in the last thirty years in only three months. Decisive measures are already in place as for example, the bills presently in Congress tend to modernize our judicial system, following what we have called the "Harvard Plan" as well as the structure of a prosecuting bureau with a view of assuring just proceedings followed by just sentences based on a modern system to obtain real evidence. Yesterday, I signed a resolution which places Q. 35,000,000.00 (Quetzales equivalent to US \$7 Million), for the beginning of a Peace Fund directed to assist the refugees and displaced people. The business community, labor unions and the government are at this time sitting together to subscribe a Social Pact directed to adopt important measures in price policy, salaries and tax collection system.

In order to assure the execution of my program of peace and human rights, I ordered a total change in the High Command of the Armed Forces, naming new officers to these posts who are identified with these concepts. Today I named a new Minister of the Interior, in charge of police, a civilian lawyer and former Human Rights Ombudsman.

Dear Senator Cranston, and distinguished United States Senators that signed the letter I received, please feel welcome to visit our country and verify it for your goodselves, by my honored guests and you will see a Guatemala in a stage of national reconstruction, a reconstruction which I hope you will feel inclined to help us with.

Sincerely,

JORGE SERRANO ELIAS,
President of the
Republic of Guatemala. •

THE 1991 UTAH HUNTER EDUCATION CHAMPIONSHIP

• Mr. HATCH. Mr. President, I rise to recognize the 1991 Utah Hunter Education Championship Competition that was held in Vernal, UT, on May 4, 1991. This competition provided young people between the ages of 12 and 18 the opportunity to exhibit their gun hunting and education skills and to further develop those skills.

The competition included rifle and shotgun shooting, archery, outdoor firearms handling, wildlife identification, and a general knowledge in responsible hunting, wildlife management, survival, and first aid. The top contenders in this competition will be given the opportunity to compete on the national level at the Hunter Education Invitational Challenge in July 1991, at the National Rifle Association's Wittington Center in Raton, NM. As you can see, Mr. President, these young people will likely be the future forerunners in wildlife conservation and management.

Mr. President, the State of Utah is recognized for having the most out-

standing hunter education program on the North American Continent because of their dedicated staff of volunteer instructors. It is the goal of the Utah Hunters Education Association to have an organization dedicated to educating the young people of Utah to become safe and ethical sportsmen. Its program consists of not only sending instructors to the far corners of the State but also to the densely populated areas. In addition, Utah Hunters Education Association have a program to educate disabled individuals so that they, too, may enjoy the same privileges as other members of this organization.

Mr. President, since we are greatly concerned in promoting safety for the citizens of the United States, responsible organizations like the Utah Hunters Education Association deserve to be commended for their actions to teach gun safety and management. I applaud them for their efforts.●

ALL'S NOT WELL IN THE ANDEAN DRUG WAR

● Mr. CRANSTON. Mr. President, I rise once again to express my deep concern about U.S. antinarcotics policy in the Andean region and what it is doing to fragile democratic governments there.

In the past year I have tried, several times, to bring to the Bush administration's attention growing concerns that its efforts to include regional military forces in the antidrug campaign would be counterproductive, with potentially disastrous consequences.

In August, in December, and several times this year, I have warned that the policy would greatly increase social tensions, destabilize healthy civil-military relations, and end up demoralizing the very police forces that should be the point of the lance in antinarcotics enforcement efforts.

Last December, I sent a letter to Secretary of State James Baker. I suggested that efforts by our Embassy in Bolivia to pressure the Government of President Jaime Paz Zamora into involving the Bolivian Army in antidrug operations would produce dangerous and unwelcome side effects.

I warned that the great pressure on the Paz Zamora government, orchestrated from our Embassy in La Paz, to involve the army in essentially law enforcement tasks would likely "lead to a corruption of both the army's national defense functions and the public safety role of the Bolivian police."

I pointed out that:

Present U.S. policy is reinforcing attitudes that the military can better maintain public order than civilian institutions, which may in fact undermine the very democratic institutions the U.S. Government should be supporting.

Furthermore, I wrote,

Popular opposition to army involvement in antinarcotics activities is generating signifi-

cant unrest in the Chapare [a major coca-producing region] and may be the spark that ignites widespread, violent social protest, further threatening the stability of the Bolivian Government.

The administration's response to this and other queries made about the militarization policy were, frankly, unacceptable.

Last year I authored an amendment to the Defense authorization bill which required the administration to prepare a report on the effects of involving military forces of the Andean region in antidrug enforcement activities.

The report, issued in February, was mostly a rehash of previous administration statements, evasive on critical points, and only barely meeting the letter—rather than the intent—of the report requirement.

And, just last week, when my office queried a State Department official responsible for monitoring the antidrug effort in Bolivia as to the efficacy of United States involvement, the response was: Things are going very well. The program has been highly successful.

State's serendipitous scenario, so reminiscent of the doublespeak of the Vietnam era, received a cold dose of reality, however, with a dispatch from La Paz in Tuesday's Washington Post. According to correspondent Douglas Farah:

Bitter rivalry between the police and army, and widespread corruption among anti-narcotics units are prompting new questions about Bolivia's ability to combat drug rings. * * *

* * * diplomats and political sources say the entry of the Bolivian army in the drug war has exacerbated historical tensions between it and police. * * *

Last month, under U.S. pressure, the government of President Jaime Paz Zamora agreed to allow two army battalions, trained by American instructors, to participate in the anti-narcotics efforts. * * *

Law enforcement officials and diplomats said the main reason the army, with a history of overthrowing civilian governments, wanted to participate in the anti-narcotics effort was jealousy over the guns and equipment being given to the police. * * *

"The army is like a spoiled child, and now both sides are angry," said a diplomat monitoring the situation. "The army just could not stand to see all the goodies going to the police."

Mr. President, the evidence is growing, although the State Department apparently chafes not to see it, that U.S. policy is delegitimizing already weak democratic institutions and demoralizing the police.

Instead of devoting greater resources to law enforcement, tens of millions of dollars are being given to a military whose bottom line seems to be the pork barrel, or "Where's mine?"

Tens of thousands of peasants, the Bolivian Catholic Church, and virtually all the country's opposition parties have mobilized against the United States-backed militarization.

Meanwhile, the military, which until recently maintained a professional, nonpolitical role, has begun to put civilian political leaders on notice about rumored corruption—a phenomenon the army has had much firsthand experience in when it ruled.

I recently asked several experts on antinarcotics issues to critique the report mandated by the Defense authorization bill. Some of their comments were included in my May 7, 1991 statement in the CONGRESSIONAL RECORD. Since then, I have received an insightful and informative letter from Prof. Donald J. Mabry, senior fellow at the Center for International Security and Strategic Studies at Mississippi State University. Mabry's letter unmasks several of the false assumptions upon which the administration's policy is based.

An excellent study—"U.S. Military Assistance, the Militarization of the War on Drugs, and the Prospects for the Consolidation of Democracy in Bolivia"—has also come to my attention.

Written by Dr. Eduardo Gamarra, a political science professor at Florida International University, the report makes the following, inescapable, conclusions:

First, that the militarization of the drug war in Bolivia empowers the armed forces and undermines the legitimacy of civilian institutions.

Second, that militarization leads to an escalation of violence and will, over time, threaten human and civil rights of Bolivian campesinos.

Third, that militarization has already had serious consequences on the Bolivian antinarcotics police, and will have the same effect on the Bolivian military.

And, finally, that the focus on counternarcotics operation—particularly militarization—tends to undermine efforts to strengthen other democratic institutions.

The happy talk emanating from the administration is the equivalent of fiddling while Bolivian democracy burns. The policy was wrongheaded to begin with, has had disastrous consequences, and yet shows no sign of change.

Mr. President, I urge my colleagues to consider what this policy means in the medium to long term. It means the discrediting of democratic institutions, the brutalization of whole sectors of the population, and the strengthening of security forces with questionable democratic vocation.

The policy is not part of the solution. It is part of the problem.

Mr. President, I ask that excerpts of the Mabry letter and the Gamarra report be printed in the RECORD, as well as copies of the article in the Post and a recent article from the Bolivian newspaper *El Diario*.

The material follows:

[From the Washington Post, May 7, 1991]
BOLIVIAN DRUG WAR BESET BY CORRUPTION,
RIVALRIES

(By Douglas Farah)

LA PAZ, BOLIVIA—Bitter rivalry between the police and army, and widespread corruption among antinarcotics units are prompting new questions about Bolivia's ability to combat drug rings, according to law enforcement officials and diplomats.

In an effort to regain some credibility after a month of purges of senior police officers for alleged ties to drug traffickers, Interior Minister Carlos Saavedra announced on Saturday a rebuilding of the anti-narcotics forces. He said measures would be taken to distance some police units from the drug war to avoid corruption and infiltration.

Bolivia is second only to Peru as a producer of coca leaf, used to make cocaine, and it is the second-largest producer of refined cocaine, after Colombia.

Diplomats and government officials said that corruption has long been pervasive among the police, who generally earn less than \$100 a month, but that traffickers have made new inroads among senior officers in recent months.

Diplomats said that at least 16 police officers who had been fired in the mid-1980s were returned to active duty in senior positions in the past five months.

Government officials attribute these new efforts by the traffickers to the fact that Bolivia, in the past 18 months, has become an important cocaine refining and shipping center. Since a crackdown began against Colombian traffickers 20 months ago, Colombian cartels have been financing new Bolivian operations.

Saavedra took office a month ago, after his predecessor, Guillermo Capobianco, along with the head of the anti-narcotics police and the director general of the police, all quit following allegations of ties to traffickers. The situation has deteriorated to the point that senior police officials demanded that their force be withdrawn from counter-narcotics activity, saying the drug war had brought only "corruption" and "damaged the image of the institution."

In the past two weeks, seven senior police officials have been fired for suspected ties to drug traffickers, and sources at the Interior Ministry said another 30 officers would be removed Wednesday for the same reason. Bolivian officials say the U.S. Drug Enforcement Administration has a list of about 60 officers it believes are tied to traffickers. For the first time, senior government officials said, the police involved are being thrown off the force and are facing criminal charges, rather than just being shuffled off to a different unit.

"These are the first people kicked out of the institution in many years," said a senior official. "The international community must be able to assume the police force is honest. That is essential to Bolivia."

Saavedra did not say what role two U.S.-trained army battalions will play in revamping the anti-narcotics forces, but diplomats and political sources say the entry of the Bolivian army in the drug war has exacerbated historical tensions between it and police, and may have prompted the calls for police withdrawal.

The police have a 1,008-man anti-narcotics unit and are the main force used in interdicting cocaine, with logistical support from the navy and air force. Last month, under U.S. pressure, the government of President Jaime Paz Zamora agreed to allow two army battalions, trained by American instructors, to

participate in the anti-narcotics efforts. The 56 U.S. trainers arrived last month.

Law enforcement officials and diplomats said the main reason the army, with a history of overthrowing civilian governments, wanted to participate in the anti-narcotics effort was jealousy over the guns and equipment being given to the police.

A U.S. official, angered by Paz Zamora's recent criticism of U.S. support in the anti-narcotics war, said that the president had pushed the army into the anti-narcotics battle "precisely because the police were getting the new equipment and the army was not."

"The army is like a spoiled child, and now both sides are angry," said a diplomat monitoring the situation. "The army just could not stand to see all the goodies going to the police."

The United States had provided the police with M-16 assault rifles, uniforms and equipment that the army did not have, and many observers suggest that, once equipped and trained, the army actually could play a small role in drug enforcement.

While officials hope the army will be used against rural drug strongholds, observers say it is unlikely.

Another diplomat said of the army, "They have already said they will not carry out joint operations with the police, they will not have the stomach to fight traffickers, and they will be kept out of areas where people grow coca, so the aid only serves to pacify them, nothing else."

MISSISSIPPI STATE UNIVERSITY,
Mississippi State, MS, April 23, 1991.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRANSTON: I do not intend to comment on the excellent questions you raised in your report requirement to the Administration. Rather, I want to point out the policy errors being made because the decision makers seem ignorant of Latin American history.

The U.S. strategy of encouraging the militaries of Bolivia, Colombia, and Peru to become active drug warriors in order to destroy the coca enterprise and to strengthen democracy in these nations, two of the stated goals of the Andean Strategy,¹ is doomed to fail. The strategy is based on several false assumptions.

Regarding Colombia, the policy treats violent acts by gangsters ("narcoterrorism"), on the one hand, and leftist guerrilla activity, on the other, as one and the same. They are not. The gangsters are killing and kidnapping people to enforce business decisions, discourage state intervention in their businesses, and prevent a Marxist revolution. Often, they are doing so with the connivance (and perhaps participation of) policemen and soldiers. In addition, some hit men are engaged in a fratricidal war against their own kind as part of a business consolidation that is taking place in Colombia. Moreover, not all those engaged in the manufacturing, distributive, and management of the coca enterprise in Colombia are engaging in violence. Of the many groups (or "cartels"), the violence appears to emanate from the Medellin group. So, even if the violence of the Medellin group is stopped, there is little reason to believe that the coca enterprise will end. Combatting gangsters is a police

¹As stated in "Andean Anti-Drug Efforts: A Report to Congress," *Congressional Record*, 137:39 (March 7, 1991).

task. The argument that the Colombian police lack the means to operate nationally is an argument to strengthen the police not one to bring in the military. There is no reason to believe that the Colombian military would be effective against gangsters.

Both the FARC in Colombia and Sendero Luminoso in Peru predate the drug trade and would exist without it. FARC and other guerrilla groups in Colombia and Sendero in Peru are products of the political and economic histories of those countries. The Gaviria government in Colombia formally recognized this fact by working to integrate guerrilla movements into the democratic process. Although there has been fragmentary evidence that FARC and Sendero have enjoyed ties to the coca enterprise, no one who studies these movements argues that they are "narcoguerrillas." Yet, the U.S. argues that military force must be used because of these limited links between guerrillas and the drug business.

If the criterion is linkage between the drug business and organizations in Bolivia, Colombia, and Peru, then the U.S. would also have to advocate the use of military force against the police and military institutions of these three nations. There is abundant evidence that police and soldiers in these three nations have been involved in the drug trade. In Colombia, there is evidence of close cooperation between drug gangsters and military officers not only because the latter like the money such cooperation produces but also because both groups want to defeat the guerrillas.

The report also argues that strengthening Andean militaries will also bolster democracy and improve human rights records, especially since U.S. military personnel will train them. By their very nature, militaries are anti-democratic institutions and the instances of a military promoting democracy are few. The United States recognizes this fact through its constitutional requirement that civilians be supreme over the military and through numerous statutes such as the Posse Comitatus Act (1878). In addition, the U.S. has a long history of democratic institutions and practices. Bolivia, Colombia, and Peru do not. Instead, their histories are full of anti-democratic civilian governments and military governments. Were this not true, such groups as FARC and Sendero would not exist. It is unclear at present how much authority the civilian governments of Bolivia, Colombia, and Peru really have over their military institutions. U.S. military training will not change these historical patterns.

Andean militaries as drug warriors will not destroy the coca enterprise but they are likely to destroy democracy in these countries and drive the common man into the arms of leftist insurgents. One byproduct will be that the U.S. will be blamed for any abuses committed by these forces.

If the U.S. goal is to aid the Colombian and Peruvian militaries fight leftist guerrillas, that fact should be stated publicly and debated. The American people need to make such a decision in a thoughtful and open manner.

That there is no serious leftist guerrilla movement in Bolivia but the U.S. is training military units there to combat drugs undermines the argument that military force is necessary because of insurgencies. That some elements of the Bolivian military want U.S. aid because they fear the empowerment of the civilian police force clearly indicates that the military has little interest in civilian control.

The U.S. cannot stop its citizens from wanting psychotropic drugs by attacking the

source of those drugs. That policy has never worked. We squeezed the heroin balloon in Turkey only to see it pop up in Mexico. We squeezed the marijuana balloon in Mexico only to see it pop up in California and Colombia. Successful U.S. anti-drug policies have been achieved domestically by convincing people not to use forbidden drugs.

Current U.S. policy in the Andes is wasteful and counterproductive. Moreover, its use of military force in a police function runs counter to U.S. ideals and practice. If we believe that the military should be kept out of civilian functions in the United States, we should apply the same principle to Latin America.

Sincerely,

DONALD J. MABRY,

Professor and Senior Fellow, Center for International Security and Strategic Studies.

U.S. MILITARY ASSISTANCE, THE MILITARIZATION OF THE WAR ON DRUGS, AND THE PROSPECTS FOR THE CONSOLIDATION OF DEMOCRACY IN BOLIVIA

(By Eduardo A. Gamarra, Department of Political Science, Florida International University)

I. INTRODUCTION

As Bolivia shed the last vestiges of military authoritarianism in the early 1980s, the United States established three priorities for this coup prone nation: to strengthen democratic institutions; to stabilize and reactivate the country's economy; and, to fight the booming drug trade. U.S. policy makers noted that decades of viewing Latin America through the Cold War prism and supporting right-wing military governments had given way to a policy that equated American national security interests with the promotion of democracy and the benefits of the free market. Emerging from two decades of military rule, Bolivia and other Andean nations welcomed this policy shift. Optimistic observers predicted the beginning of an unprecedented era of US-Andean cooperation.

The end of the decade, however, revealed that nothing new had transpired; instead US-Bolivian relations had entered into an era of "deja vu."¹ Parallels could be drawn between the containment policy of the 1960s and 1970s and US policy which took shape in the 1980s. Just as the Alliance for Progress, which stressed building democracy and economic reform, yielded to military-led anti-communist counter-insurgency objectives, in the late 1980s Washington again gave the military wider berth in leading counter-narcotics operations.

An examination of the Bolivian case suggests that increases in U.S. military assistance have potential destabilizing effects on civilian rule.² The 1952 revolution led by the Movimiento Nacionalista Revolucionario (MNR) reduced the size of the armed forces; however, in the mid 1950s U.S. policy conditioned economic aid to Bolivia on the reconstruction of the Bolivian military. By the early 1960s Bolivia had become one of South America's largest per capita recipients of U.S. military assistance. As the MNR succumbed to factional disputes, by virtue of U.S. assistance, the military was catapulted into power.

One of the key components of U.S. military assistance to Bolivia during the Alliance for Progress years came under the rubric of civic action. Officers who would go on to govern Bolivia, were important participants in civic action programs. As some have

noted, civic action programs enabled the military to develop a significant base of support from campesinos mobilized by the 1952 revolution.³ It was this base of support that General Rene Barrientos used in 1964 to overthrow the MNR and inaugurate an 18-year period of military-based authoritarian rule.

In 1970, using the Bolivian case as an example, the Rand Corporation concluded that involving the Latin American military in nation-building efforts, such as civic action, tended to politicize the armed forces and make them compete with civilian authorities for scarce public funds. Other studies have linked the demise of Latin American civilian governments in the 1960s and 1970s to U.S. military assistance which included training, equipment, and weaponry.

In the 1980s, the containment of narco-guerrillas, drug traffickers, and other such groups in the Andean region and declaring drug trafficking a threat to U.S. national security has paved the way for military options. While extending the logic of national security to the Andean region, Washington policymakers claimed that narcotics traffickers constituted the gravest threat to the incipient democracies of the Andean region. Given the Bolivian record in the 1960s several questions must be posed about the strengthening of the military and launching in into the drug war.

This paper contends that, while the drug industry may have potentially destabilizing effects on civilian rule, U.S. military assistance constitutes a graver threat to Bolivian democracy. Paradoxically, well-intentioned U.S. policies and their unlikely outcomes may well undo Bolivia's decade-old democratic experiment. Bolivia's weak democratic traditions may not survive a U.S. policy which rebuilds the military, pushes for militarized zones, and thrusts the armed forces of the region into conflicts with peasants and other groups opposed to counter-narcotics operations.

The first sections of this paper examine the evolution of U.S. policy toward Bolivia and the current Andean Strategy, which thrusts the military into the drug war while doing significant levels of assistance. Then, the paper analyzes current Bolivian responses to U.S. policy. By noting the reticence of Bolivia's leadership to pursue a "militarized" approach because of the potential impacts on democratic governance, section III discusses Bolivia's Coca for Development thesis. This paper argues that U.S. terms, which condition economic and democratic initiatives to military involvement in the drug war, have undermined alternative development efforts. The concluding section discusses the potential political impacts of the militarization of Bolivia's drug war.

II. U.S. ANDEAN POLICY: FROM GREEN SEA TO SNOW CAP

The making of U.S. policy toward Latin America has always been characterized by conflict and fragmentation. Counter-narcotics policy is not an exception. Partisan differences, sharply contested bureaucratic infighting, historical divisions between the executive and legislative branches, and public opinion have influenced the course of policy. This "pluralistic" setting, which was largely responsible for the failure of U.S.-Central American policy, has converted drugs into the dominant concern in U.S.-Andean relations.

Current efforts to "militarize" counter-narcotics operations are the culmination of a series of pressures which began in the latter part of the 1970s and early 1980s. Thus, resulting U.S. policy toward the product of

pressures emanating from civilian sectors of the Andean region must be understood as the American political system and how these are processed through the American foreign policy bureaucracy. Policy toward the Andean region is the result of established organizational procedures and bureaucratic decision making which have conditioned U.S. policymakers to perceive the narcotics issue through the same lens used to deal with the previous "communist" threat to national security.

Although U.S.-Andean policy is the product of competing interests and bureaucratic bargaining it is worth noting that resulting policy reinforced a conception of the U.S. national interest defined by the Reagan and Bush administrations. Both pursued goals which they genuinely believed were for the general well-being of U.S. and Andean societies. This view integrated the threat of drugs into an ideological prism that defined foreign policy in terms of a communist threat. With the end of the Cold War, this conception of the national interest processed the "drug threat" through the same procedures established to deal with the "communist threat."

Growing frustration over a perceived "national drug epidemic" culminated with the politicization of narcotics control efforts in the United States.⁴ Social groups, ranging from parents organizations to religious activists, exerted influence on policy makers who, in turn, demanded a more aggressive stance in combatting drugs in the source countries. Media reports, which gave prominence to drug-related tragedies throughout the United States, were also responsible for bringing together the anti-drug coalition that developed in the mid-1980s. The 1986 deaths of prominent athletes, such as Len Bias and Don Rogers, are often noted as a critical turning point in the American public's perception about drugs.

Even in the context of bitter partisan disputes in the United States the drug issue's salience achieved the impossible: a consensus between the ultra conservative Jesse Helms and the Reverend Jesse Jackson. Indeed, in the US Congress liberal Democrats joined conservative Republicans in demanding a military role in interdicting drugs at source countries and at US borders. Anti-drug coalition members, however, were also engaged in an intense battle to outdo each other. Partisan differences accentuated as Democrats attempted to demonstrate a greater commitment to fighting drugs than the Republicans.⁵ As a result, U.S. policy toward the Andean region was affected by a recurrent split between congressional efforts to enforce "tougher" policies, such as Section 2005 of the 1986 Foreign Assistance Act which required automatic withholding of 50 percent of US foreign assistance to countries deemed to be uncooperative in counter-narcotics efforts, and the Reagan and Bush administration's own counter-narcotics efforts in the Andean region. Both aspects of U.S. policy affected the course of counter-narcotics operations and, in some measure, compelled the government's of the Andean region to adopt stringent drug enforcement programs.⁶

International factors cemented the anti-drug coalition. Because of the collapse of the Soviet Union and Eastern Europe and the end of the Cold War, the "war on drugs" became the new battle cry. The resulting issue vacuum catapulted drugs to the forefront of American electoral politics. Soon drugs commanded the center of attention of policymakers and interest groups who demanded prompt and quick action to resolve the na-

Footnotes at end of article.

tional drug epidemic. As the Reagan administration left office in 1988 drug-trafficking had already been classified as the principal threat to US national security.

The consequences of elevating drug trafficking to national status were felt immediately. Despite resistance from prominent members of the Department of Defense, who argued against a military role in the drug war, a policy was designed which included a mission for both the U.S. and Andean armed forces.⁷ A role and mission for the military, however, was not something new or different.

It is noteworthy that unlike Central American policy, opposition from activist groups in the United States to the efforts to militarize the war on drugs in the Andes has been virtually absent. Apart from the critical posture taken by the Washington Office on Latin America⁸ and America's Watch, few other such groups have lobbied Congress or the administration to alter the policy. Many factors account for this general lack of interest. Most important perhaps is the reality that the ideological component which drove US-Central American policy has been replaced by the moralistic overtones of the anti-drug crusade. When it comes to fighting drugs both the left and the right have agreed on the basic premises of the drug war.

Throughout the 1980s the United States experimented with military options in anti-drug efforts in Latin America and the Caribbean. Most operations were conceived on the assumption that the most effective way to disrupt the flow of drugs into the United States was through interdiction efforts in drug producing and trafficking nations. As early as 1979, under Operation Green Sea coca production in Peru's Upper Huallaga Valley was targeted with the use of Peruvian military personnel and US advisors. Beyond temporarily halting the production of coca leaves this joint military exercise accomplished little.

Bolivia's profound economic crises, coupled with the pressures of transition to democracy, relegated the urgency to deal with the "drug threat."⁹ By the mid-1980s Bolivia was the world's second largest producer of coca and, according to several estimates, cocaine revenue exceeded legal exports and was responsible for preventing the collapse of an economy afflicted by a 26,000 percent hyperinflation rate.¹⁰ In short, Bolivia's incipient democratic governments could do little to resist the growth of the coca/cocaine industry and even less to resist U.S. pressures to militarize the anti-drug campaign.¹¹

In 1983 Bolivia and Peru established, under U.S. guidance, specialized police units, named Unidad Móvil de Patrullaje Rural (UMOPAR), to direct counter-narcotics operations. Throughout the 1980s UMOPAR units became paramilitary squads engaged more in counter-insurgency and less in counter-narcotics operations. An accurate characterization of UMOPAR units is that they are law enforcement outfits carrying out military operations.

On occasion civilian governments succumbed to mounting U.S. pressures to recruit the armed forces for counter-narcotics operations. In 1984, for example, faced with domestic and international criticism Bolivia's civilian president, Hernán Siles Zuazo, ordered the army into the Chapare Valley, the country's principal coca growing region. Despite the fanfare, however, the results were negligible.

U.S. supported operations escalated in the mid-1980s. Between 1982 and 1985 U.S. military support for interdiction efforts were

carried out in the Caribbean. Under "Operation Bat" in the Bahamas and Turks, U.S. air force and army helicopters were used in interdiction maneuvers. A succession of operations nicknamed Hat Trick followed the same procedures used by OPBAT. U.S. officials claimed that these operations disrupted Caribbean drug trade routes. The "success" of these operations prompted calls for a deepening and expansion of the role of the military personnel elsewhere in Latin America. If interdiction efforts were successful with traffickers then the same results were to be expected in the Andean source countries.¹²

In the Andes, in 1985 and 1986 Operation Condor employed the Peruvian air force to attack processing facilities and airstrips in the jungles of Peru. Because an escalation of repression appeared to drive the Peruvian campesino to form linkages with insurgent groups, such as Sendero Luminoso, the results were not encouraging.

A major turning point in U.S.-Andean counter-narcotics efforts came in July 1986 when the Bolivian government agreed to the launching of "Operation Blast Furnace." Between July and November 1986 six black hawk helicopters and 160 U.S. troops provided air mobility to Bolivian UMOPAR forces.¹³ The most significant impact was a temporary disruption in coca production.¹⁴ Because no "peces gordos" were arrested and few kilos of cocaine were confiscated, success was measured mainly by the resolve of both governments to carry out joint counter-narcotics operations.

Blast Furnace also ushered in a new era for the Bolivian armed forces which after the fiasco of their August 1984 entry into the Chapare displayed little interest in playing a subordinate role to the UMOPAR. After engaging in joint military exercises with U.S. Southern Command troops in April 1986 and promises of military assistance, the Bolivian armed forces became more predisposed to participating in counter-narcotics operations. Beginning with Blast Furnace, the navy and air force provided airlift and riverine capability to the UMOPAR forces. No role was envisioned for the Bolivian army.

It is worth noting that Blast Furnace came just three months after President Reagan declared drug trafficking a national security threat and during the infamous Summer of 1986 when the deaths of Len Bias and Don Rogers escalated the salience of the drug war in the minds of the American public. Under the presidential national security directive U.S. military participation was to be guided by three principles: 1) host governments had to invite U.S. forces; 2) U.S. civilian agencies (such as the Drug Enforcement Agency-DEA) were to coordinate the efforts of U.S. forces; and, 3) U.S. forces were to be limited to support functions.¹⁵ During Blast Furnace this appears to have been the case.

The burden of the operation fell on the government of Victor Paz Estenssoro, who had to contain opposition in Congress and from organized labor. Mainly because of his ruling coalition's control over the Congress, Paz Estenssoro decided his government could afford to challenge the opposition in the legislature.¹⁶ As the former leader of the populist Movimiento Nacionalista Revolucionario (MNR) which sponsored Bolivia's agrarian reform in 1953, however, Paz Estenssoro did not want to stir the wrath of the campesino farmer. Nevertheless, the controversy generated by "Blast Furnace" was greater than its accomplishments.

Blast Furnace was an operation conceived by the United States Embassy in La Paz as

early as November 1985 without any consultation with Bolivian government officials.¹⁷ Even after President Paz Estenssoro authorized the operation, embassy officials gave little or no consideration to the legal implications under Bolivian law. Significantly, the Bolivian constitution prohibits the presence of foreign troops without specific congressional approval. Blast Furnace initiated a pattern of violation of Bolivian constitutional provisions supported, if not encouraged, by the U.S. Embassy in La Paz. The lip service paid to democratic norms did little to prevent the erosion of legitimacy of counter-narcotics operations.

Ideally Blast Furnace was to involve year-round activities including riverine and air lift support by the United States. Additionally, the operation required extensive intelligence gathering on the location of cocaine laboratories. Because it became mainly a political demonstration on the part of both the U.S. and Bolivian government, however, riverine operations were never initiated. Moreover, because the U.S. military and its Bolivian UMOPAR allies relied almost exclusively on DEA intelligence the initial success of the operation may have been jeopardized.¹⁸

For the U.S. Blast Furnace would accomplish three objectives. First, cocaine processing laboratories in the Beni region would be closed down. Second, this action would disrupt cocaine processing and consequently reduce the demand for coca leaves. Third, the price of coca leaves would fall below production prices thus forcing peasants to turn to crop substitution programs. From the Bolivian government's perspective Blast Furnace would demonstrate its commitment to combatting drugs.

Based on the experience of Blast Furnace, U.S. officials argued that if the price for the coca leaf could be depressed significantly for a prolonged period, peasants would permanently move to other more profitable cash crops. They claimed that repressing the trafficker (or middleman) would reduce demand for coca leaves, thus depressing its market price. In fact, during the operations many campesinos in the Chapare flocked to USAID crop substitution programs; however, enough resources to satisfy all the requests were not available. When U.S. troops left Bolivia, the price for coca shot back up to pre-Blast Furnace levels and the total hectareage under cultivation increased concomitantly over the next three years.¹⁹

The success of Blast Furnace prompted calls for a continuation of this strategy. As a result, "Operation Snowcap" was initiated secretly in 1987. Special attention was given to avoiding the political backlash associated with joint counter-narcotics operations. DEA strategists argued that Snow Cap was meant "to arrange the profile in such a way that it is perfectly acceptable politically, media-wise and every other way in support of what we are trying to do."²⁰ Directed by the DEA (Drug Enforcement Administration) and the State Department's Bureau of International Narcotics Matters (INM) Snow Cap extended a variety of interrelated aerial, waterway, and ground enforcement programs in Bolivia, Peru and Colombia. Apart from DEA advisors and INM personnel, U.S. Coast Guard and Border Patrol agents also participated. Snow Cap was intended to:

"[suppress] cocaine supply through the destruction of clandestine laboratory facilities, control of precursor and essential chemicals, and interdiction of the drug on land and waterways in conjunction with eradication and economic development programs. A major

thrust of this strategy is to improve the resources and expertise of host government forces."²¹

Between 1987 and 1989, the INM leased six Huey helicopters from Department of Defense (DOD) and loaned them to Bolivia's UMAPAR. In addition, under Snow Cap UMAPAR troops received U.S. Army Special Forces training which included small unit tactics, map reading, jungle survival, and communications. According to the DEA, Snow Cap yielded positive results: 30 cocaine laboratories were destroyed between 1987 and 1989; 9.5 metric tons of coca paste and cocaine based were seized; and 12 private airplanes involved in cocaine trafficking were seized.

Other figures contradicted the DEA's claims; for example, a World Bank report noted that Bolivia's coca trade had grown at an annual rate of 35 percent since 1980 and was likely to continue for the remaining years of the 1980s.²² Despite the efforts of Snow Cap coca cultivation and processing continued apace. As dissatisfaction with the DEA's role and the effectiveness of Snow Cap mounted, the Bush administration stepped up efforts to either expand the role of the U.S. military or extract a commitment from the Bolivian government to send the army into coca growing regions.²³

As Blast Furnace had demonstrated the political costs of allowing U.S. troops on Bolivian soil would be great to any government. Thus, Snow Cap became an acceptable substitute to both circumvent the political opposition in Bolivia to the use of U.S. military personnel and to impress the U.S. Congress.²⁴ But by the end of 1989 the Bush administration insisted on increasing the role of U.S. military advisers and the use of Bolivian armed forces to carry out interdiction operations.

Inter- and intra-bureaucratic turf battles led to bitter confrontations between agencies theoretically working together under the umbrella provided by "Snow Cap."²⁵ As each agency fought for a leadership role, the policy became less cohesive. Dissatisfaction with the role of the DEA in counter-narcotics efforts reflected another element which shaped U.S.-Bolivian policy and paved the way for increased military assistance.

Several problems plagued the policy rooted mostly with the agencies involved in its implementation. The Senate Permanent Subcommittee on Investigations noted:

"U.S. anti-narcotics efforts in the Andean region have been substantially undermined by a failure on the part of concerned agencies—e.g. the Defense and State Departments, DEA and those responsible for intelligence collection and analysis—to adequately cooperate with one another and coordinate their respective drug related activities."²⁶

Because of the perceived ineffectiveness of Snow Cap, as the 1980s ended a greater role for the Defense Department in the counter-narcotics fray was envisioned. During the Reagan administration both Casper Weinberger and Frank Carlucci, who served as Secretary of Defense, objected to congressional and Administration efforts to expand the role of the military in the drug war. Under the Bush administration's Secretary of Defense, Richard Cheney, the situation changed dramatically. Under the terms of 1989 Defense Authorization Act the Department of Defense became the lead agency in the Bush Administration's "War on Drugs." In March 1990 DOD made public its intention to carry out a wide-ranging plan which includes: border control, aerial and maritime

surveillance, intelligence gathering and training of troops in the Andes.

The December 1989 invasion of Panama added the possibility that the U.S. military could be deployed to carry out drug raids throughout South America. In fact, Panama provided proof to the young Bush administration that the combination of dictators and drugs were the principal threat to Latin American democracy. After the success of Panama, General Maxwell Thurman, the commander of the Southern Command, became the key force behind DOD counter narcotics initiatives.²⁷

Given the U.S. government's decision to employ its own military in the War on Drugs no logical reason could be offered to prevent the use of the Bolivian military (or Peruvian and Colombian) in combatting drug lords and/or coca growers. Melvyn Levitsky, Assistant Secretary for International Narcotics Matters told a congressional subcommittee that: "Our decision to encourage greater participation of the [Andean] militaries in the counter-narcotics efforts parallels the evolution of our own policy that projects a greater role for the Department of Defense in the war on drugs in the United States."²⁸

III. COMPONENTS OF CURRENT UNITED STATES ANDEAN POLICY

This was the context under which the Bush administration's counter-narcotics policy toward Bolivia, Colombia and Peru was launched. In September 1989 the Bush administration announced its National Drug Control Strategy which called for a \$2.2 billion program beginning in FY 1990 to supplement law enforcement, military, and economic programs already in place in the Andean region. Directed by Drug Czar William Bennett and the State Department's Bureau Office of International Narcotics Matters, the administration negotiated a regional implementation plan with the governments of Bolivia, Colombia and Peru. Then, at the February 1990 Cartagena Summit, the four countries agreed on what has been labelled the Andean Strategy.

Following the signing of the Cartagena Declaration the Bush administration and the governments of Bolivia, Colombia, and Peru claimed a significant victory in the "war on drugs." U.S. officials noted that the Latin Americans had finally accepted the Administration's proposals to escalate repressive anti-drug activities. In turn, the Andean president noted that the U.S. had finally acquiesced to their demands for an "alternative development policy." The Andean presidents agreed that responsibility for combatting the "drug war" should be shared. They also agreed that policy distinctions should be made between consumer, trafficker, and producer nations.

Shortly after Cartagena, however, the true nature of the Declaration surfaced. At least in the case of Bolivia, the Bush administration conditioned economic aid on the acceptance of military aid. For the better part of 1990 the U.S. exerted pressure on the Bolivian government to accept military aid as an initial step toward the deployment of their armed forces in zones of conflict. Resulting U.S. policy, dubbed the Andean Strategy, proved to be extremely controversial given the promises made about alternative development during the Cartagena Summit.

The Andean Strategy calls for a multifaceted approach to combatting the production and trafficking of cocaine. In a recent report to Congress, the administration noted the strategy's four principal objectives.²⁹ First, the administration seeks to "strengthen the political will and institu-

tional capability" of the three Andean governments to enable them to attack the cocaine trade. In theory, diplomatic, professional, and training missions will aid these governments in carrying out effective programs to counter the drug trade.

A second objective of the Andean Strategy is to improve the intelligence gathering capability of both law enforcement and military institutions. The Strategy calls for assistance to police and military units to ensure that they are "well-equipped, trained, and cooperate in an integrated strategy." For the Bush administration:

"It has become clear that the Andean nations can conduct more effective counter-narcotics operations with the involvement of the armed forces; this is especially true where the traffickers and the insurgents have joined forces."

In short, the Bush administration's principal objective is to involve the Latin American militaries in the drug war to target coca growing regions, eradicate coca plantations, identify and destroy cocaine labs, and shut down clandestine air strips throughout the region. Because of the size of the three countries and the remoteness of the regions where drug activity is carried out, the Andean Strategy argues that the capacity of law enforcement units to deal with the problem of drug production and trafficking is extremely limited.

Claiming that U.S. military assistance will strengthen democracy in the region the administration's report to Congress cites 5 reasons for involving the military in counter-narcotics operations. First, the report notes that civilian governments negotiate and approve all military assistance although the details are worked out by military to military contacts. Second, the administration argues that a poorly trained and impoverished military is more susceptible to corruption and human rights abuses. Third, U.S. government strategists insist that if the military is sidelined it would be critical of civilian counter-narcotics efforts and would constitute a grave threat to democracy. Fourth, the report claims that involving the military would augment scarce resources available to fight the war on drugs; consequently, the battle would be carried out in a more effective manner. Finally, the administration assumes that only with the involvement of the military can a safe and secure environment be provided for economic growth and democracy.

The administration claims it is providing assistance to develop specialized skills for conducting counter-narcotics operations, not to create major combat units. In other words, its principal aim is to support law enforcement activities of both military and police units. Under present policy the United States forbids the use of counter-narcotics assistance for other purposes such as fighting insurgents. In Colombia and Peru, however, this distinction has been a difficult one to make. Because it is providing the Andean governments with the tools and assistance to defend their political will and sovereignty, the administration argues that U.S. policy is not "militarizing" the counter-narcotics campaign in the Andes. This logic is reminiscent of the rationale employed by the United States to bolster military aid to El Salvador throughout the 1980s in the name of strengthening that country's democracy.

As noted in the previous section an expanded role for the Department of Defense has prompted concern about a possible involvement for the U.S. armed forces in Latin America. The U.S. is careful to point out,

however, that DOD personnel are forbidden to accompany local forces on "actual operations or engage in any activities where hostilities are imminent." This prohibition does not extend to U.S. civilian personnel, such as DEA agents, who usually accompany Andean forces on counter-narcotics operations. Because both DEA and local military and police forces have undergone Special Forces military training counter-narcotics operations are indeed militarized.

The third objective of the Andean Strategy claims that:

" * * * by strengthening ties between police and military units and creating major violator task forces to identify key organizations, bilateral law enforcement and military assistance will enable the host government forces to target the leaders of the major cocaine trafficking organizations, impede the transfer of drug generated funds, and seize their assets within the United States and in those foreign nations in which they operate."

The Andean Strategy's third objective does not distinguish between civilian and military law enforcement efforts; in fact, the objective of current policy in Bolivia is to subordinate the civilian police to the military's counter-narcotics operations. The thrust of the policy, measured by the amount of assistance earmarked for the Bolivian military, is to strengthen the armed forces without serious consideration being given to the long range impact their strengthening may have on Bolivian democracy.

The fourth objective of the Andean Strategy is to expand economic assistance beginning in FY 1991. The administration claims that one half of the \$2.2 billion five-year plan will consist of economic assistance. Disbursement, however, is tied to counter-narcotics performance, economic policies, and respect for human rights. U.S. economic assistance includes financing for crop substitution and alternative development, drug awareness, administration of justice, balance of payments support, and export promotion.

This final objective, however, appears almost as an afterthought in the administration's report to Congress. As the House Government Operations Committee noted:

" * * * the Committee has become acutely aware of the enormous economic impact the coca economy has had on Bolivia, and the need to develop economic solutions. Yet in the [administration's] rush to win the drug war through military and law enforcement efforts, the Administration has not prioritized these central economic dimensions of the problem."

IV. BOLIVIA AND THE IMPLEMENTATION OF THE ANDEAN STRATEGY

Despite the Bolivian government's denials the militarization of its counter-narcotics efforts was initiated in early 1991.³⁰ The paradox of the policy is that while the Andean Strategy's principal objective is to strengthen democracy, the implementation of the policy in Bolivia has been anything but democratic; in fact, the militarization of Bolivia's drug war has been carried out without consultation with broader sectors of Bolivian society. The Andean Strategy has been negotiated and implemented only with the knowledge of a few members of the ruling parties.³¹

The implementation of this policy illustrates a general pattern of policymaking in Bolivia and says a great deal about the realities of dependence. Bolivia's extreme dependence on U.S. aid has had the effect of reducing the space available to its policymakers to pursue available policy alternatives avail-

able. In counter-narcotics as in broader economic policy, the autonomy of the government to design its own policies is restricted by international financial institutions and/or the U.S. government. Thus, while the Bolivian government may want to pursue a less repressive policy, to receive aid and other benefits, it must follow U.S. initiatives.³²

The impact on democracy of this essentially authoritarian style of policy making can be quite negative: public confidence in the current Paz Zamora government is at an all time low. In 1990 social tension stemming from the anti-militarization campaign coincided with an even graver issue: the increase in terrorist activities. None was more troubling than the June 11, 1990 kidnapping of Jorge Lonsdale, the Coca Cola representative for Bolivia and one of the most prominent members of the private sector by the resurrected *Ejército de Liberación Nacional's* *Comisión Nester Paz Zamora* (ELN-CNPZ). In early December, during a bungled police rescue attempt, Lonsdale was executed by his captors. In October, the ELN had also claimed responsibility for a bombing attack on the U.S. Marine House in La Paz.

Of particular concern was evidence of links between the ELN and Peru's Tupac Amaru urban guerrilla group. Equally disconcerting, however, are reports that the Bolivian police allegedly executed members of the ELN-CNPZ while in detention. Despite official claims that the ELN-CNPZ was dealt a definitive blow during the Lonsdale incident, in the aftermath members of the group still at large declared an all out war against the government. These events do not bode well for Bolivia's "island of tranquility." Should the ELN-CNPZ hook-up with peasants fighting the government's attempts to militarize the drug war in the Chapare, they may indeed be the harbinger of a Peru-style wave of violence which could undo the Bolivian miracle.

In 1990, Bolivian president Paz Zamora, after vainly resisting pressures from the U.S. State Department, signed Annex III to a 1987 U.S.-Bolivia anti-drug agreement in return for \$33.2 million in U.S. military assistance and promises that economic aid would also be disbursed.³³ Even as Paz Zamora denied the "militarization" of the drug war, he ordered two regiments to initiate anti-drug operations.³⁴ Already a large anti-militarization effort had been mounted by opposition political parties, labor, and campesino groups who feared the consequences of such a policy. Paz Zamora's response to the protesters is worth noting.

"When I arrived in Bolivia after my trip to the United States and announced the victory of dignity and the negotiating capacity [of our government], I was surprised [to find] that every day militarization is spoken about. This has obstructed the dignified way in which Bolivia has achieved these results without realizing that militarization had not been achieved and that the training and equipping of our armed forces is an inseparable part of the global strategy of alternative development. He who continues to speak about [militarization] is either stupid or anti-Bolivian, because without a doubt it is a way of damaging the dignity of the nation and its armed forces."³⁵

In July, August, and November 1990 campesino unions carried out road blockades and strikes, announced the establishment of armed campesino defense committees, and called on campesinos in general to dodge compulsory military service. In August, after signing an agreement with campesino unions not to militarize its anti-drug efforts,

the government announced that instead of ordering troops into the Chapare where confrontation with peasants was inevitable, U.S. military aid would be used to deploy army units which were to monitor and prevent ecological damage caused by the processing of coca paste in the Bolivian jungles.

Throughout 1990 official Bolivian claims that the solution to the drug war requires more than guns, radars, and helicopters enraged many in the U.S. State Department's Bureau of International Narcotics Matters, who believed that Bolivians had gone back on previous commitments.³⁶ Robert Gelbard, the outspoken U.S. ambassador, publicly reminded the Bolivian government that economic aid would be disbursed only if the military enters the drug war. Gelbard also headed efforts to hold up the signing of trade and investment agreements as a way to pressure the Bolivian government into signing an extradition agreement.³⁷ Faced with a no win situation, Paz Zamora's government engaged in a bit of double speak: he complied with U.S. requirements but also attempted to convince Bolivians that his government was not giving in to the Americans.

The mood surrounding the formulation of anti-narcotics policy in Bolivia has been intolerant of opposing or dissident voices. Egged on by the U.S. embassy, the Bolivian government has labelled any opposition to the militarization policy as cooperation with narcotics traffickers. Leaders of the Coca Grower's Federation, for example, have been accused of trafficking in cocaine or providing traffickers with protection. Members of political parties who oppose the policy have suffered the same fate.

A paradoxical situation developed in late February 1991 when the Bolivian government named retired Colonel Faustino Rico Toro to head the National Council Against Drug Abuse and Trafficking. Rico Toro headed the infamous G-2 intelligence service under the drug tainted government of General Luis García Meza, was widely suspected of providing protection to narcotics traffickers, and was reportedly linked to Klaus Barbie, the infamous "Butcher of Lyon" who served as adviser to the Bolivian military. When the U.S. announced its intention to cut off 100 million dollars in economic and military assistance, Rico Toro resigned. Under fire from the United States Guillermo Capobianco, the Minister of Interior, and Colonel Felipe Carvajal, the chief of police, were also forced to step down before U.S. aid was restored.

The reasons for the nomination of Rico Toro have ranged from the bizarre to the novel. In my view, the nomination had more to do with the patronage requirements of the governing alliance than with a conspiracy to place persons with contacts to the drug industry in key positions. Rico Toro is a prominent member of the co-governing *Acción Democrática y Nacionalista* who headed Cochabamba's powerful civic committee but who had been excluded from prominent government posts.

That Capobianco and Carvajal were involved in a conspiracy to name persons who would protect traffickers to high government positions is also pure speculation; in fact, no formal charges against these two individuals could be substantiated. It is worth noting, however, that every minister of interior since 1980 has been accused of providing protection to drug lords. The paradoxes of this situation are even more remarkable when one notes that Capobianco was involved in the December 1989 expulsion of former minister of interior Colonel Luis Arce Gomez to the United States where he was tried and convicted in January 1991.³⁸

In late March 1991 the Paz Zamora government confirmed what had been public knowledge in the United States for over ten months but which had been kept from most Bolivians. According to the government two light infantry battalions will be ordered into the Chapare to carry out "logistical and operative support functions." These battalions would previously undergo two 10-week training sessions under the guidance of 112 U.S. advisers.³⁹ After overcoming stiff opposition from the opposition in Congress the ruling coalition, dubbed the Acuerdo Patriótico, approved the presence of U.S. advisers. A few hours after the debate concluded in Congress a Galaxy plane loaded with 90 tons worth of ammunition landed in the La Paz airport. The first contingent of U.S. military advisers was scheduled to arrive in Bolivia on April 22.⁴⁰

At about the same time (the last days of March 1991) campesino leaders from Bolivia and Peru met for four days at a so-called Encuentro Andino de Productores de Coca to plan a joint strategy to counter the militarization of counter narcotics efforts in both countries. As the meeting ended, it became increasingly clear that Bolivian peasant leaders, in particular, were willing and able to mobilize in opposition of the government's planned militarization campaign. Campesino leaders repeatedly warned that militarization would derive into "generalized violence throughout the coca growing regions."⁴¹

Given the option, and the benefit of the doubt, the Bolivian government would focus its efforts on alternative development or Coca for Development programs, which are lauded as a viable alternative to the escalation of repressive counter-narcotics measures. The underlying principle of this approach is that the coca-cocaine problem is principally an economic threat to Bolivia given the country's critical poverty rate and acute recession. Thus, any approach to deal with the issue must focus on economic development and not solely on repression. Government officials are quick to point out, however, that Bolivia has carried out "internationally recognized interdiction efforts."

Alternative development is the cornerstone of the Bolivian approach; thus, the main long-term objective of the government is to substitute the coca-cocaine informal economy with a solid and diversified formal economy. This alternative development strategy entails an almost insurmountable task of substituting not only crops but also jobs and income for thousands who have come to depend on the industry.

The transformation of the agricultural sector in Bolivia over the course of the past decade is noteworthy. During the past 15 years a rapid shift from other agricultural products to coca growing has occurred. In the mid-1980s this shift accelerated as a result of hyper inflationary pressures and neo-liberal policies put forth to stabilize the economy. According to a government estimate 61,000 families or 300,000 people depend directly on the production of coca. In 1989, the production of coca accounted for 12 percent of GDP. Moreover, export revenue from the coca-cocaine economy reached \$726 million of which only \$213 million remained in Bolivia. In short, alternative development implies a profound structural change of the Bolivian economy which can be accomplished only with large amounts of foreign aid.

Bolivia's Programa Nacional de Inversión de Desarrollo Alternativo has put forth a six-year time table for the "substitution of the coca economy." As table 2 illustrates be-

tween 1990 and 1995 this program claims it will eradicate 43,735 hectares of excess coca production. The Bolivian government has also been quick to point to recent success in meeting crop eradication targets mandated by bilateral agreements with the United States.⁴² In the same time period the economy will lose \$385.9 million in production, 175,300 jobs, and \$195.6 million in revenue. Bolivian government officials claim that 1.8 billion dollars in the same time period will be required to carry out its coca for development project (See Table 5 for breakdown).⁴³ Securing financing for these programs has proven elusive, especially given the U.S. focus on militarized solutions.

One of the obstacles to the alternative development strategy is that payments to peasants in exchange for voluntarily eradicating coca crops have been very slow. As coca prices recover, the attractiveness of substitution is not great to peasants who cannot make a living from other crops. Additionally, coca substitutes, such as macadamia nuts, take years to generate profitable returns. Still others have high start-up costs; moreover, campesinos are not guaranteed a market for new products.

The fact remains that without a great infusion of foreign investment or aid and a coherent and long-term rural development component Bolivia's Coca for Development thesis is doomed to failure. In the Bush administration, there are few enthusiasts who embrace this approach and perceive it only as an obstacle to a real solution. The U.S. Congress, in turn, continuously regrets Bolivia's decision to ban the use of herbicides for the eradication of coca plantations and finds little political use for alternative development programs. Consequently, Bolivia's only choice has been to accept military assistance and push ahead with its intention to order the army into the drug fray.

Ironically government officials have spoken out publicly about the impact talk of militarizing the war on drugs has had on alternative development programs. Osvaldo Antezana, the undersecretary of alternative development claimed that militarization announcements produced an almost immediate escalation, from 80 bolivianos to 260 bolivianos per 100 pounds, in the price of coca leaves. Antezana also noted a significant decrease in the number of hectares eradicated in 1991 owing to the threat of militarization.⁴⁴

The reality at the moment is that the Bolivian government has painted itself into a corner. The Rico Toro incident and the government's bumbling attempts to resist U.S. pressures to engage the military have proven costly. The permission granted to U.S. military advisers and the entry of the military into the Chapare has aggravated a political crisis that had dragged on for over six months. Members of the opposition have even suggested that Paz Zamora step down early to avert a collapse of the democratic regime.⁴⁵

V. THE POLITICAL IMPACT OF MILITARIZATION

President Paz Zamora's decision to order the army into Bolivia's Chapare in early 1991 has stirred a far-reaching debate about the dangers of militarizing the drug war. The debate has intensified since April 4, 1991 when the ruling Acuerdo Patriótico coalition rubber-stamped Paz Zamora's decision to accept the presence of 122 US military advisers to train two Bolivian army regiments. These developments have renewed the controversy about the impact of U.S. military assistance on democratic rule in Latin America. At least four reasons that the consequences of

militarizing the drug war will be disastrous for Bolivian democracy.

(1). The militarization of the drug war in Bolivia will empower the armed forces and undermine the legitimacy of civilian institutions.

In October 1991 Bolivia will commemorate nine years of democratic rule. This celebration marks a momentous occasion, considering the tumultuous transition from military-based authoritarian rule and the nature of the 1980-1982 military government, "a uniformed kleptocracy" with close ties to the cocaine industry. The coming to power of General García Meza and other "narco generals" was the culmination of a pattern initiated in the 1960s. Infusions of U.S. military aid to the Bolivian military led to the end of civilian rule in 1964. Moreover, for the next eighteen years, the armed forces were corrupted both by control over the Bolivian state and by the aid received from the United States.

When the military withdrew from politics in the early 1980s the institution had been torn apart, in large measure, by the actions of corrupt officers and their ties to the narcotics industry. Since 1982 civilian governments have walked a precarious line in order not to stir the wrath of the military.⁴⁶

It is noteworthy, however, that the military devoted its efforts to the reconstruction of its institution and insuring its proper role within the confines of a civilian democracy. Involvement in the drug war, especially through massive infusions of military aid, could undo this precarious balance. In spite of the persistence of social turmoil, and the tenuous basis for Bolivia's economic recovery, the transition to democracy in the 1980s was quite successful. Bolivia has experienced three national and two municipal elections where incumbents have peacefully surrendered power to the opposition. The Bolivian political elite has established a successful power-sharing scheme between the ruling and opposition parties that is being carefully examined by other South American democracies. In large measure, the current power sharing arrangement between the MIR (Movimiento de Izquierda Revolucionaria) and ADN (Acción Democrática y Nacionalista) has facilitated the imposition of austerity, political reform, and the fighting of the War on Drugs. The current good health of Bolivian democracy is largely the product of a degree of maturing of the local elite.

Despite this progress, however, it is highly possible that militarization of the drug war could catapult the military back into political power. In contrast to Argentina Bolivia's military has not been brought to trial for corruption and human rights atrocities; moreover, the apparatus installed by García Meza in 1980 remains virtually intact. This was amply documented by the nomination of retired Colonel Rico Toro to head Bolivia's principal counter-narcotics organization. The expansion of the size and role of the armed forces is likely to politicize the institution once again and draw it into conflict with other sectors of Bolivian society.

Conventional wisdom about democratic consolidation suggests that weak democracies should beware of the dangers of resurrecting military institutions and intelligence apparatuses.⁴⁷ In fact, the logic of democratic consolidation suggests that incipient democracies first empower civilian institutions to prevent a recurrence of military-based authoritarianism and to establish civilian control over the armed forces. Every Latin American country that underwent a transition from military rule has had to come to terms with this question.⁴⁸

In its two years in office, the government of Jaime Paz Zamora has been tarnished and weakened by its cooperation with U.S. plans to militarize the drug war. Maintaining legitimacy and popular support has been quite difficult for at least two reasons related to this issue: first, the political costs of its botched attempt to keep Annex III secret; and its decision to order the army into the Chapare while publicly denying such a development. The recent Rico Toro fiasco noted above has only added to the loss of face of the Paz Zamora government, which now must wonder whether it will even be able to complete its term in 1993.

(2) Militarization will lead to an escalation of violence and will threaten human and civil rights of Bolivian campesinos.

According to independent observations, civil and human rights violations in coca growing regions are already rampant. In fact, over the course of the last four years, conflict between UMOPAR and coca growers has resulted in occasional bloody battles. At least three examples of these confrontations should be noted. On May 27, 1987 five peasants were killed during a skirmish between UMOPAR and peasant groups in Parotani, Cochabamba. In part because of the fall out of this incident the government signed an agreement with the Bolivian Labor Central (COB) and peasant unions from the Chapare Valley. This accord instituted the so-called "Integral Development Plan for the Substitution of Coca" (PIDYS) that ushered in the alternative development thesis.

Peasant leaders claimed that violations of promises not to classify coca as a dangerous substance in the PIDYS accord led to a second confrontation. While the Bolivian National Congress debated the Law of Dangerous Substance and Coca Regimen (Law 1008), peasant opposition to the new drug law culminated in violence on June 27, 1989 when UMOPAR troops fired upon coca growers who allegedly attacked the police units headquarters in the town of Villa Tunari, Cochabamba. Five peasants were killed, scores more were injured and arrested.⁴⁹

Apart from confrontations with peasant growers in the Chapare, violence has also erupted in the Beni region where narco trafficking is centered. Two such incidents are worth noting. In October 1989, for example, UMOPAR killed one townsman and injured several others in Guayaramerín. And in June 1989, an attempt by UMOPAR to capture a prominent drug lord in the town of Santa Ana del Yucuma pitted the elite police unit against the townspeople. According to the government one person died, seven were wounded, and five were arrested. The U.S. Embassy in La Paz added to the controversy surrounding this case by claiming that the civilian population in the town had protected the drug lord who managed to flee.

In September 1990, a major anti-drug raid by DEA and UMOPAR agents was met by about 100 peasants. In the gunfire which ensued a DEA agent was wounded and several peasants were arrested. The focus on interdiction has produced contradictory results. Joint DEA/UMOPAR operatives have targeted roads used both by peasants to deliver goods to market and by drug traffickers as landing strips. While bombing these roads may prevent the traffickers from landing their aircraft, peasants are also deprived of roads to commercialize products besides coca.

As the Bolivian military enters into the Chapare and other zones, the likelihood of violence increases concomitantly. Increased violations of campesino civil rights are also

a certainty. Bolivian campesinos already face discrimination by the system of justice; however, in the Chapare illegal searches and seizures, arbitrary arrests, and torture are routine. As in the United States the hysteria associated with the drug war has legitimated the violation of civil liberties by overzealous law enforcement officials. This situation is not likely to improve with the entry of the Bolivian army into the anti-coca crusade.

The worst case scenario in this militarization of the war on drugs is that Bolivia's coca-growing peasantry could end up in a shooting conflict with the armed forces. Again Peru's lessons are worth noting. As drug interdiction and crop destroying programs targeted peasants, they turned to groups like the Shining Path, the violent Maoist guerrillas, for protection. In Bolivia, for the moment the freedom to organize in protest provided by Bolivian democracy have prevented this situation. But the emergency in 1990 of groups like the Comisión Nestor Paz Zamora reveals that the potential is there for rural violence.

In 1990 Ambassador Gelbard told a visiting congressional delegation of plans to seal off the Chapare and the Berí. Under Gelbard's proposal,

"U.S. trained Bolivian army battalions would engage in special operations with or without police units. The procedure would be to secure the town or area (probably by the army) and to have house to house searches (probably by the police). Such a plan would likely entail military occupation of a town or region."⁵⁰

As the Embassy's plan becomes a reality, Bolivia runs the risk of surrendering entire territories to the armed forces in the name of fighting the drug war. If these plans are implemented the escalation of violence in Bolivia is a certainty. The almost certain negative long-term impact on civilian rule is, of course, also a certainty.

(3). Militarization has already had serious consequences on the UMOPAR police forces, now we want to do the same to the Bolivian armed forces.

Beyond catapulting the military back into the political arena and escalating rural unrest, the corruption of the institution is a foregone conclusion. Owing to huge profits generated by the production and sale of drugs, contact with it has invariably corrupted whatever institution is recruited to curtail trafficking and coca production. The Bolivian army appears particularly vulnerable to the temptation of huge profits generated by the cocaine trade. Bolivia has already had is Manuel Noriega in Gen. García Meza—and the likelihood of a similar figure emerging is not far fetched.

To understand the dangers of drug lords penetrating the military it is worthwhile analyzing the impact the drug industry has had on the UMOPAR Leopards, Bolivia's elite U.S.-trained rural police. Early reports of corruption in UMOPAR raised suspicions in the U.S. Congress about the commitment of Bolivian narcotics control mechanisms. Retired Air Force Major Clarence Edgar Merwin, former director of the Air Force special Operations Schools who supervised the training of the UMOPAR, concluded in 1987 that every director of this unit was on the take.⁵¹ It is worth noting, however, that low salaries (averaging \$70 per month) account in part for this corruption.

Given the historical record of the Bolivian military, its corruption is a given. How Bolivian democracy will survive a corrupt military with ties to the drug industry is a question few are willing to ponder. An examina-

tion of the Bolivian navy, which has been involved in Bolivian drug interdiction efforts as a supporting institution from the beginning, suggests that the involvement of the armed forces, must be carefully scrutinized. Since 1985 two commanders of the Navy were dismissed following accusations of involvement in the drug trade; and, numerous other officers have come under suspicion.⁵² The dishonesty of a few will not necessarily translate into the corruption of the entire institution; however, low salaries, the hazards of the job, and plain and simple corruption would expose a large number of officers to bribery and other types of pressures from narcotraffickers.

A related problem—intramural conflict—is currently in progress. The UMOPAR "Leopards," and members of the regular police, have bickered constantly partly because the elite unit gets higher pay but also because the opportunity for securing profit is maximized by entering the drug war. Now the army appears willing to enter the battle because the Bolivian navy and air force have been enlisted to fight drugs in remote jungle towns. These tensions have already escalated, pitting the military against the police in the fight for U.S. dollars. In 1990 frequent clashes between the UMOPAR and the armed forces took place.⁵³

By conditioning military aid to fighting the drug war the U.S. has inadvertently fueled these disputes. Beyond a battle for higher salaries the growth of each institution's budget is now linked to drug control efforts. Both police and military units understand that, in the context of economic austerity, their best hope for better training, equipment, and salaries is to buy into the "War on Drugs."

On April 16, following the alleged suicide of a police commander, the Bolivian government announced the complete overhaul of the Frente Especial de Lucha Contra el Narcotráfico. According to the new plan only district commanders and administrative personnel will be retained while 900 members of this 1200-man unit will be permanently replaced. The Bolivian government claimed that this action would prevent future corruption of the institution. While this action came in the aftermath of the suicide it also coincided with the arrival of US military advisers and the ordering of the two army battalions into the Chapare. This action is the final step towards the complete subordination of Bolivia's police forces to the military in counter narcotics operations. In a few months the consequences of ordering the military into law enforcement operations will begin to surface.

(4). The focus on counternarcotics operations, especially militarization, has undermined efforts to bolster other democratic institutions.

One of the most promising aspects of U.S. policy toward Bolivia in the 1980s was the democratic initiatives program, which promoted the strengthening of democratic institutions. Under the direction of USAID, programs were designed to reform their political institutions. These programs received a considerable amount of support, even among groups which have traditionally opposed any US based initiative.⁵⁴

The democratic initiatives program has gradually been subordinated to the anti-drug strategy. Ironically, the unintended consequence of strengthening democracy programs has been the weakening of civilian institutions. This dilemma appears to be particularly evident in reforms and current proposals to the Bolivian judicial system.

Owing to extensive U.S. pressure to reform the judiciary—an institution particularly vulnerable to corruption—in July 1988 the Bolivian Congress approved Law 1008 that established, 13 “controlled substances courts” (*juizados de substancias controladas*). The results have not been encouraging. Data for 1989-90 suggest that the Judiciary dealt better with drug suspects before the establishment of these specialized drug courts.⁵⁴ Furthermore, these drug courts have sapped the Judiciary’s budget in spite of US subsidies for salaries and the like.

Because of the negative results obtained by these specialized courts in prosecuting and convicting drug trafficking suspects, new proposals have been introduced by US consultants. These range from constructing “super prisons” to hold only drug traffickers, to the establishment of a bunker-style centralized narcotics court in the capital city of La Paz. US terrorism experts have turned to the Italian experience and have encouraged Bolivia and other Andean nations to set-up special courts similar to those used to eliminate the Red Brigade terrorist threat.⁵⁵

An example of the contradictory message being sent by Washington to Bolivia is the December 1989 expulsion of Colonel Luis Arce Gomez, the feared minister of interior during the Garcia Meza government. Apart from producing a major confrontation between the executive and judicial branch, these actions undermined the legitimacy and effectiveness of the judicial process. Members of the Supreme Court labelled the action unconstitutional because of the absence of an extradition treaty with the US and because indictments on human rights charges against Arce Gomez were pending in the Bolivian judiciary.⁵⁷

Claims by the Paz Zamora government that the action was taken because of judiciary’s inefficiency received little credence. Some critics even suggested that the decision to expel Arce Gomez was a last-ditch effort by the Bolivian government to forestall the imposition of economic sanctions by the US Congress and the State Department, as called for by a December 1988 agreement, for failing to eradicate 5,000 hectares in 1989.

Most analysts agree that fostering allegiance and respect for the political structures and constitutions is a critical element in developing democratic values and traditions and in consolidating civilian rule.⁵⁸ U.S. policies that encourage the violation of weak constitutional norms and democratic values are especially problematic. Bolivian democracy has been held hostage to short-sighted drug policies.

A contrast with US democratic history is instructive. Elected leaders in the United States have not tolerated temporary violations of their nation’s Constitution in the name of preserving or protecting its democracy.⁵⁹ In Bolivia, however, US policy encourages Bolivia’s elected leaders to violate their own Constitution in the name of preserving democracy. While good intentions, such as ending drug trafficking, may motivate this behavior, it is worth recalling that democratic traditions in are incipient and authoritarian alternatives are still firmly rooted in Bolivia’s political culture.

FOOTNOTES

¹ For a similar view consult, John Martz, “Democracy and Human Rights: Something New or Deja Vu,” comments delivered at the conference on The United States and Latin America: Redefining US Purposes in the Post Cold War Era, University of Texas, Austin, February 28-March 1, 1991. Martz noted that Washington has not discarded its tradition of paternalism and “little brown brotherism.”

In his view the Bush administration’s view of the region is still very unsophisticated and has not changed much from the Wilsonian view that the US must “teach Latin America about democracy.”

² Clearly, the argument made in this paper does not suggest that the U.S. trained the Bolivian military to launch coups. As some have noted that would be tantamount to blaming Harvard for crimes committed by its graduates. Ample evidence exists, however, which suggests that U.S. military assistance strengthened the armed forces at the expense of civilian institutions.

³ See, James M. Malloy, *Bolivia: the Uncompleted Revolution*, (Pittsburgh, University of Pittsburgh Press, 1970).

⁴ Several compelling essays, articles, and books question whether a “national drug crisis” really exists in the United States. See, for example, Arnold S. Trebach, *Why We Are Losing The Great Drug War?* (New York: Macmillan, 1987).

⁵ This statement is true as a general description of the Democratic Party’s posture; however, as the decade came to a close several members of Congress questioned the general thrust of the policy, especially the militarization component. Throughout 1990 several congressional hearings were held which looked into US policy. The conclusions of these hearings are summarized in the United States Anti-Narcotics Activities in the Andean Region, (Committee on Government Operations, 1990).

⁶ This was the case, for example, in Bolivia’s rush to adopt Law 1008, a far reaching anti-drug law implemented approved by the Bolivian Congress in July 1988, and Peru’s willingness to employ herbicides to eradicate coca plantations.

⁷ Consult Bruce Bagley, “Myths of Militarization: The Role of the Military in the War on Drugs in the Americas,” paper presented at the conference on the United States and Latin America: Redefining US Purposes in the Post Cold War Era, University of Texas, Austin, February 28-March 1, 1991.

⁸ See, Coletta Youngers, “The War on Drugs in the Andes: The Military Role in US International Drug Policy,” (Washington Office on Latin America, 1990) for an excellent critique of US policy.

⁹ For a discussion of the general political context of the period consult, James M. Malloy and Eduardo Gamarra, *Revolution and Reaction: Bolivia 1964-1985* (New Brunswick: Transaction Books, 1988).

¹⁰ The Bolivian government estimates that approximately \$490 million annually enter the Bolivian economy from the cocaine industry. See *Estrategia Nacional de Desarrollo Alternativo 1990*, (La Paz: Presidencia de la Republica, 1990).

¹¹ See Eduardo A. Gamarra, “Drugs, Politics, and Foreign Policy in Bolivia,” paper presented at the International Conference on Money Laundering sponsored by the University of Miami, Coral Gables, FL, October 27-29, 1989.

¹² As Bruce Bagley, op. cit. notes, the success of these Caribbean operations was tempered by the temporary nature of the disruption of the drug trade. The main result was that traffickers discovered new routes through Central America and Mexico.

¹³ For a fascinating account of Blast Furnace consult, Michael H. Abbott, “The Army and the Drug War: Politics or National Security?” in *Parameters U.S. Army War College Quarterly* Vol. 18 Number 4 (December 1988), pp. 95-112.

¹⁴ The price of coca leaves fell from \$125 to \$15 according to some estimates. The Bolivian government also claimed that 800 traffickers had fled the country. As soon as the U.S. troops left the price of coca leaves jumped back to pre-Blast Furnace levels.

¹⁵ See Bagley, op. cit. “Myths of Militarization: The Role of the Military in the War on Drugs in Latin America,” p. 5.

¹⁶ For a discussion of Bolivian politics during Blast Furnace consult, Eduardo A. Gamarra and James M. Malloy, “Mass Politics and Elite Arrangements: Elections and Democracy in Bolivia,” in Jerry Ladman and Juan A. Morales eds., *Bolivia After Hyperinflation* (Tempe: Arizona State University, Center for Latin American Studies, forthcoming).

¹⁷ According to Lt. Colonel Sewall Menzel, former US Army attache in La Paz who was involved in the development of the operational strategy behind Blast Furnace, President Paz Estenssoro was not informed until late January 1986. Menzel, who was present during Ambassador Edward Rowell’s briefing, contends that Paz Estenssoro said, “Mr. Ambassador, you can do anything you want to do.” Interview, Miami, FL, March 14, 1991. For Menzel’s own written account of Blast Furnace consult “Operation Blast Furnace,” *Army* (November 1989), pp. 24-32.

¹⁸ Bickering between DOD personnel and DEA over cocaine laboratories targeted in the Beni was a constant feature of Blast Furnace. The military was openly skeptical of DEA intelligence gathering. Menzel interview, *Ibid*.

¹⁹ The Blast Furnace experience convinced Colonel Menzel about the futility of interdiction efforts in Bolivia. Menzel now argues that only by focusing on reducing demand through education and treatment on demand can the drug crisis be overcome. Interview *Ibid*.

²⁰ Hearings, “Operation Snow Cap: Past, Present and Future,” House Committee on Foreign Affairs, May 23, 1990, p. 8.

²¹ Hearings, “Operation Snow Cap: Past, Present and Future,” House Committee on Foreign Affairs, May 23, 1990, p. 48.

²² cited in GAO, “Drug Control U.S. Supported Efforts in Colombia and Bolivia,” (Washington: Government Accounting Office, 1988), p. 44.

²³ In March 1989, Ambassador Robert Gelbard pushed for a greater role for the US armed forces mainly because of what he considered a less than acceptable performance by the DEA in Bolivia. Interview La Paz, August 8, 1989.

²⁴ In Bolivia few people outside of government officials were aware of Operation Snow Cap. In general interviews in 1988, 1989 and 1990 Bolivian government officials denied the existence of Snow Cap claiming it was an invention of the American media. At the same time, the U.S. congress was holding public hearings on the effectiveness of the operation. This points to another recurring theme in U.S.-Bolivia counter-narcotics efforts: policies which are public knowledge in Washington are kept secret in Bolivia because of the high political costs involved.

²⁵ The DEA and Customs often exchange private and public accusation of interference. Complaints were also voiced by members of the armed forces who noted that the DEA was engaged in operations which should be reserved for Special Forces.

²⁶ Report, Permanent Subcommittee on Investigations, Senate Committee on Governmental Affairs, February 6, 1990, p. 10 cited in United States Anti-Narcotics Activities in the Andean Region (Committee on Government Operations, 1990), p. 23. For an interesting and provoking illustration of bureaucratic infighting consult Michael Levine, *Deep Cover* (New York: Delacorte Press, 1990). Levine presents a classic illustration of how infighting within the DEA undermined counternarcotics operations.

²⁷ For a description of General Thurman’s plan for a simultaneous strike by the armed forces of Bolivia, Colombia, and Peru against drug traffickers see “The Drug Busters,” *Newsweek* (International Edition), July 16, 1990. Apart from General Thurman, however, few enthusiasts can be found in the Pentagon for military involvement in the Andes.

²⁸ Statement by Melvyn Levitsky, Assistant Secretary for International Narcotics Matters, before the Subcommittee on Western Hemisphere Affairs of the House Foreign Affairs Committee, Washington, DC, June 20, 1990.

²⁹ “Andean Anti-Drug Efforts: A Report to the Congress,” (Washington, D.C.: Departments of Defense and State) March 1991.

³⁰ See, “In the Americas: Bolivia,” *Miami Herald* March 17, 1991 and “Desacuerdo por lucha antidrogas,” *El Nuevo Herald* March 18, 1991 p. 3a.

³¹ Under the terms of the Declaration of Cartagena, Bolivia and the United States agreed to implement interdiction, eradication, and alternative development strategies through bilateral agreements. The Bolivian Ministries of Foreign Affairs, Defense, Interior are charged with requesting assistance and implementing the strategy. The National Council Against Drug Abuse and Illegal Drug Trafficking (Consejo Nacional de Lucha Contra el Narcotráfico) directs all counter-narcotics efforts. Eradication programs are handled by the Ministry of Agriculture while interdiction efforts are coordinated by the Ministry of Interior. The Ministry of Defense approves all deployments of the Special Force for the Fight Against Narcotics Trafficking (SFFANT), a multi-agency task force comprised of air force, navy and UMAPAR units. The SFFANT is a subordinate unit of the National Council and reports to it through the Minister of Interior.

³² The Bolivian case also illustrates the significance of activist ambassadors who for several reasons, beyond the scope of this essay, pursue objectives above and beyond stated policy. Ambassador Robert Gelbard’s activism demonstrates how effective a pro consular role can be in achieving U.S. objectives.

³³ While most of the aid will go toward equipping and training, Annex III claims that a substantial

but unspecified, portion of this amount will go to civic action programs. The army will obtain training and equipment for two infantry battalions for anti-narcotics operations; training and equipment for two engineering battalions for civic action programs; training and equipment for a transport battalion; and, training and equipment for a supply and services section. The air force will receive helicopter and airplane parts, six new UH-1H helicopters, and maintenance and repairs for its entire air fleet. Additionally, the air military police will receive training and equipment. The navy will obtain up to eight Piraña patrol boats and four additional 36 foot patrol boats. Navy personnel will also receive training and equipment.

³⁴ See, "Paz Zamora anuncia ingreso de FF.AA. a la lucha antidroga," *Ultima Hora* 19 May 1990, p. 20.

³⁵ *Ibid.*

³⁶ Jorge Crespo, Bolivia's Ambassador to the United States, spearheaded efforts in Washington to counter the momentum toward full scale militarization. In interviews with Bolivian Embassy officials they noted that the Ambassador's efforts in Washington proved costly. In an ironic twist of events, Ambassador Gelbard reportedly accused Crespo of "involvement in the internal affairs of the United States" and allegedly exerted pressure on the Paz Zamora government to secure his resignation.

³⁷ Interviews with members of the Ministry of Industry and Trade and with members of the Bolivian Embassy staff in Washington confirmed this view.

³⁸ Because Arce Gómez's expulsion from Bolivia took place without an extradition treaty and despite the fact that warrants were out for his arrest on human rights charges, a major institutional crisis was initiated pitting the Supreme Court against the executive branch. The fall out of this conflict was felt throughout 1990; in fact, the attempted impeachment of two-thirds of the Supreme Court magistrates by the government controlled Senate can be seen as an extension of this conflict. For an expansion of this analysis consult Eduardo A. Gamarra, "The System of Justice in Bolivia: An Institutional Analysis," (Center for the Administration of Justice, Florida International University, 1991).

³⁹ "Militares combatirán drogas, reitera Bolivia," *El Nuevo Herald* 28 March 1991, p. 3a.

⁴⁰ Governmental intolerance of dissident groups escalated considerably as opposition to the presence of US military advisers and the ordering of the army into the Chapare mounted. The Paz Zamora government initiated a campaign in the local media accusing peasant groups and opposition parties of inadvertently collaborating with drug traffickers. A full page announcement from the ministry of information stated boldly: "The enemy is astute and there are those who without knowing it, help the enemy." See *Presencia* April 3, 1991, p. 9.

⁴¹ Productores de coca de tres países discuten estrategia ante gobiernos," *El Nuevo Herald*, 28 March 1991, p. 3a, and "Cocaleros reacios a política antidrogas," *El Nuevo Herald* 30 March 1991, p. 3a.

⁴² The Bolivian government, however, does not acknowledge that voluntary eradication targets may have been successful only because of temporarily low coca prices resulting from both the disruption of trafficking operations in Colombia and a glut in the coca market. Because of the lack of alternative crops Bolivian campesinos who voluntarily eradicated their crops have also planted new coca fields. Moreover, the price for coca leaves rebounded in late 1990 and early 1991 from the low of \$10 to around \$47 per hundred pounds. These signs do not bode well for alternative development goals.

⁴³ In 1990 the Bolivian government presented a list of 75 alternative development projects to the World Bank requiring \$611.4 million dollars in investment. Clearly the potential for carrying out a great number of projects is there; however, financing has been slow to come.

⁴⁴ According to Antezana, in January 712 hectares were eradicated; however, in February 440 hectares and through March 20 only 120 hectares had been voluntarily eradicated. The downward trend was linked by Antezana to peasant reaction to the impending militarization of the chapare region. See, "Precio de la coca sube debido a los anuncios de militarización," *Presencia* March 26, 1991, p. 8.

⁴⁵ See, MNR y AP se acusan de vulnerar la democracia," *Presencia* March 22, 1991, p. 1.

⁴⁶ Bolivian democracy has not fully dealt with the legacy of 18 years of military rule, particularly the García Meza period. Congress and the Supreme Court attempted to conduct a malfeasance trial against the former dictator; however, after initially confronting the charges he disappeared and many

suspect he is still being protected by certain elements within the armed forces.

⁴⁷ See Alfred Stepan, *Rethinking Military Politics*, (Princeton University Press, 1989).

⁴⁸ Note, for example, Argentina's trail and conviction of former military presidents and Brazilian president Fernando Collor de Mello's decision to abolish the feared *servicio Nacional de Inteligencia* (NSI). Although on the surface it would appear that Bolivia has dealt with this issue better than its neighbors, the fact is that no military officer has been held accountable for the atrocities committed in the early eighties. Moreover, the trial of General García Meza in the Supreme Court has dragged on for years while the former de facto head-of-state continues to receive his retirements checks.

⁴⁹ For an analysis of this period and its political ramifications consult Eduardo A. Gamarra, "Drugs, Politics and Foreign Policy in Bolivia," paper delivered at the International Symposium on Money Laundering, Miami, Florida, October 26-28, 1989; and Eduardo A. Gamarra, "Bolivia," in the *Latin American and Caribbean Contemporary Record Volume 7* (Holmes and Meier, 1990).

⁵⁰ "United States Anti-Narcotics Activities in the Andean Region," (Committee on Government Operations, 1990).

⁵¹ See David Kline, "How to Lose the Coke War," *Atlantic Monthly*, (May 1987), pp. 22-27.

⁵² In late October 1988, Ambassador Robert Gelbard announced the suspension of U.S. aid to the Bolivian navy presumably because it was covering the actions of narco traffickers near Guayaramerin in the Beni region. This was followed by the forced resignation of Douglas Estremadoiro, the Commander of the Navy.

⁵³ In May 1990 an UMAPAR helicopter was allegedly shot at by members of the army. Shortly thereafter an UMAPAR officer was allegedly beaten up by members of the Barrientos regiment of the army. At issue is which institution will lead the drug battle. UMAPAR, with years of experience in the Chapare, is unwilling to take a back seat. See, "Efectivos del ejército dispararon contra helicóptero de UMAPAR," *Ultima Hora*, May 17, 1990, and "Temor de choques entre efectivos de las FF.AA. y UMAPAR en el Chapare," *Ultima Hora*, May 16, 1990.

⁵⁴ At this writing only the judiciary has been the beneficiary of these programs; however, other institutions, such as the legislature, are also under consideration.

⁵⁵ In 1988 the Judiciary tried 17 narcotrafficking cases and sentenced Roberto Suarez, Bolivia's infamous King of Cocaine, to 12 years in prison. In 1989 12 cases were tried, the number of convictions dropped, and reports of suspects being released prematurely increased. Through May 1990 only five narcotrafficking cases had been heard. See José Chavez Aguilar, "Jugados de Sustancias Controladas," *Presencia* May 1, 1990, p. 3.

⁵⁶ The impact of these courts on the Italian system of justice suggests that greater caution ought to be exercised in the designing of parallel courts. See Mary Volcansek, "The Judicial Role in Italy: Independence, Impartiality and Legitimacy," *Judicature* (April-May 1990) Vol. 73 number 6 pp. 322-327.

⁵⁷ See, "Politics and Drugs, Extradition Causes Institutional Crisis," *Latin American Regional Reports Andean Group* February 1, 1990, p. 3.

⁵⁸ Consult for example, Guillermo O'Donnell, Philippe Schmitter, and Laurence Whitehead, eds, *Transitions from Authoritarian Rule* (Johns Hopkins University Press, 1986); James M. Malloy and Mitchell Seligson eds., *Authoritarians and Democrats: the Politics of Regime Transition in Latin America* (University of Pittsburgh Press, 1987); and Alfred Stepan, *Rethinking Military Politics* (Princeton University Press, 1989).

⁵⁹ Take, for example, the outrage generated by Richard Nixon's justification for the Watergate break in. Oliver North's efforts to legitimize the illegal funding of the Nicaraguan contras provides a similar example of this logic which ended abruptly with congressional condemnation.

[From *El Diario*, Apr. 23, 1991]

BOLIVIA: SENATOR SAYS ANTIDRUG OPERATIONS DEPEND ON DEA

The activities of the Umapar [Mobile Units for Rural Areas] in Chapare are dependent on the fuel, helicopter, and food provided by the DEA because Umapar has no government support. This information was released by Senator Jose Luis Carvajal Palma, chairman

of the Senate Development and Corporations Committee [Comisión de Desarrollo y Corporaciones del Senado Nacional], following a visit that he and other lawmakers paid to the Umapar unit in Chimore.

Carvajal said that the commander of the Umapar unit in Chimore reported to him that 300 soldiers stationed there are not enough to fulfill their mission, which is to fight drug trafficking. "They say that this number should be increased to at least 1,000. With this number they would be able to investigate all the trafficking rings in the region."

The concern expressed by the Umapar members is justified because government officials, have not fulfilled the promises that they made to the Umapar personnel, who have been abandoned to their fate.

During a visit to the Umapar unit, former Interior Minister Guillermo Capobianco promised life insurance for the "Leopards," but this has not yet been implemented.

Social Defense Under Secretary Gonzalo Torrico, also visited the area. "He made several promises that have never been implemented. Consequently they are working under unsuitable, conditions and essentially rely on the DEA. This is inconceivable. We should, as a country, provide the support needed by the Umapar so that it can properly fulfill its mission, or leave all antidrug work to the DEA. A choice must be made. Furthermore, I believe that the promises made by government officials must be fulfilled, particularly those made by the Interior Ministry."

He confirmed that the DEA is positively supporting the work of the Umapar.

"Umapar is doing its job in Chapare thanks to the DEA helicopter and thanks to the fuel and food that the DEA provides, allowing them to fulfill their duties. The operations have been conducted according to a program designed by Umapar. It would have been impossible to implement the program without DEA support," he said.

The lack of fulfillment of the promises made by the Interior Ministry has caused disillusionment among Umapar members, who are not working efficiently. "To overcome this situation, the government must fulfill the promises to provide life insurance, more troops, and other matters."

Despite the limitations on the Umapar, in one of its most recent operations it captured a man who reported on the activities of the Umapar to the drug traffickers of the region. This infiltrator hindered and harmed Umapar activities because he reported all Umapar movements to the drug traffickers in Chapare.●

IN RECOGNITION OF THE 25TH ANNIVERSARY OF THE ANAHEIM EAST ROTARY CLUB

● Mr. SEYMOUR. Mr. President, I rise in recognition of the 25th anniversary of the Anaheim East Rotary Club on May 12, 1991. As a former rotarian, I know well the great work of Rotary, its "Avenues of Service," the "Four-Way Test," and "Service Above Self."

The Anaheim East Rotary Club's founding president was Cliff Garlapp. Charter members numbered 23. The club has conducted its meetings at Anaheim Stadium since its inception. It has numbered among its members the outstanding business and professional leaders of the community.

The club has fostered and promoted the precepts of Rotary in all its avenues of service, and particularly in the avenue of community service. Among its achievements over the years are included:

Holding Anaheim's first annual Easter egg hunt to benefit physically and mentally disabled children;

Purchasing transportation equipment for the local boys and girls clubs;

Donating funds and man-hours to the Maxwell House facility for physically and mentally disabled children;

Building and repairing cabins at Camp Ocoela YMCA summer camp;

Helping to build and maintain Oak Canyon Nature Center in cooperation with the Anaheim Department of Parks and Recreation;

Providing financing and labor to help refurbish the Senior Citizens Center in downtown Anaheim;

Helping with financial assistance in the operation of the Orangewood Home for Abused Children.

Assisting in meeting the needs of an orphanage in Mexico.

Indeed, "Service Above Self," has been the cornerstone on which the Anaheim East Rotary Club has forged its legacy.

Please join me in extending the congratulations and best wishes of the U.S. Senate to the Anaheim East Rotary Club.●

REAGAN'S AWESOME ECONOMIC BOOM

● Mr. KASTEN. Mr. President, this year marks the 10th anniversary of the enactment of the Economic Recovery Tax Act of 1981. The ERTA bill reduced marginal tax rates for all Americans and provided tax incentives for American business to produce and invest. Back then, critics charged that Reaganomics would deindustrialize America, reduce living standards, and raise inflation and interest rates.

But the facts about America's remarkable prosperity in the 1980's are undeniable: 92 straight months of economic expansion; the creation of 20 million good jobs at good wages; and the highest rate of manufacturing productivity growth in the industrialized world. In an article for the Wall Street Journal earlier this week, economist Alan Reynolds examines the facts and concludes that: "The pro-longed U.S.-led expansion of 1983-90 must go down in the history books as one of the most impressive economic performances on record."

I think the reason for today's economic downturn is quite simple: We have turned away from the pro-growth policies that, were responsible for America's economic prosperity in the 1980's. The best cure for recession is to cut tax rates on both labor and capital, put a lid on Federal spending, and re-

ject burdensome Federal mandates and regulations on small businesses.

I ask that Mr. Reynolds' article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, May 6, 1991]

REAGAN'S AWESOME ECONOMIC BOOM

(By Alan Reynolds)

The 92-month economic expansion that began in November 1982 and ended July 1990 was 3½ times as long as the average peacetime expansion since 1919, and second only to the record of 106 months in 1961-69. Such an exceptionally long period of rising output and employment left the country with enormous cumulative gains that will be barely dented by what appears to be a mild downturn.

From trough to peak, real GNP rose 32 percent, or 4.2 percent per year. That means the entire U.S. economy, including government, grew by nearly one-third in fewer than nine years. The output of nonfinancial corporations grew even faster, 38.6 percent over nine years—an annual rate of 5 percent.

NO DEINDUSTRIALIZATION

The Federal Reserve's index of manufacturing production grew faster still—by 6.3 percent a year—yielding an awesome total increase of 48.3 percent. All the talk about the "deindustrialization of America" turns out to have been not only false but ludicrous. The near-doubling of exports, in real terms, over those nine years is equally at odds with conventional unwisdom about an alleged loss of "competitiveness." Indeed, it is quite unlikely that exports have peaked, even now.

What happened to investment is more controversial. Total private investment was up more than 71 percent, despite early cutbacks in housing and nonresidential construction. Producers' durable equipment, which studies by Larry Summers and others have shown to be particularly vital to economic growth, was up 76.3 percent.

To make such a big number look small, some economists would have us believe that most of the increased investment was eaten away by depreciation, leaving little improvement in the "net" capital stock. There are complex conceptual and measurement problems with that argument. The quality of capital equipment, for example, cannot be measured by the number of dollars spent. Replacing a depreciated electric typewriter with a similarly priced computer may not add a dollar to "net investment," but it certainly generates more valuable goods and services.

The evidence contradicts the pessimistic claim that the investment boom yielded little "net" improvement in the nation's capital stock. Since manufacturing output rose by more than 48 percent, and exports by nearly 93 percent, there must have been substantial investments in added capacity to generate all that added production. U.S. production of business equipment last September was nearly 76 percent higher than it had been in 1983, and imports of capital goods have exceeded imports of consumer goods since 1987. It surpasses credibility to believe that most of the new machinery that was produced or imported in recent years is now all worn out or "depreciated," leaving little "net" improvement.

Farm income is not included in the graph, because farming does not simply follow the overall ups and downs of the overall economy. The trough for farmers was 1983, not 1982, and the most recent peak appears to have been in the first quarter of last year,

dipping slightly since then. In the first quarter of 1990, real net farm income was up 188 percent from the deeply depressed average of 1983, but also up 125 percent from 1980.

Government certainly grew too. However, like farming, the timing of government activities does not quite match the overall cycle. Measured in constant 1982 dollars, federal tax receipts soared by 36.8 percent between fiscal 1983 and fiscal 1989. So much for the canard that lower tax rates starved the central government. Purchases by state and local governments grew by 30.2%. Before last year's increases in federal and state taxes, real after-tax income per person (which had risen only 7.5% from 1973 through 1980) had risen by 19.2% from 1980 through the first quarter of 1990.

Another statistic that tracks a different cycle is labor productivity. Indeed, productivity rose during 1981-82, as it did in previous recessions and will again this year. When productivity in nonfinancial corporate business reached its characteristically early cyclical peak, at the end of 1988, it was up 14.1% from 1980. When considered alongside the huge and important increase in employment of millions of less-skilled new workers, the combination of a 25% increase in hours of work, plus more output per hour, was really quite an achievement.

A unique feature of this expansion was the enormous growth of small entrepreneurial ventures, indicated by an increase of nearly two-thirds in the real income of nonfarm proprietors. It is difficult to imagine this burst of individual creativity and enterprise occurring were it not for the sharp reduction in marginal tax rates on individual income and, until 1987, on capital gains.

The unusually rapid increase in the number of people seeking and finding jobs is likewise surely attributable to the improvement in after-tax rewards. The percentage of the working-age population with jobs had hovered around 58%-59% from 1966 to 1983. It soared to 63.4% by early 1990. Back in 1980, the Labor Department's intermediate projection was that the civilian labor force would be 119.3 million in 1990. The actual labor force turned out to be 124.8 million, 4.6% higher than expected. Despite this unexpected surge in the number of eager job seekers, the unemployment rate is lower today—in the middle of a recession—than it was in all but two of the years from 1975 through 1986.

There were 19.3 million more people working at the peak of the job cycle than at the end of 1982, an increase of 19.5%. And nearly all of these added workers are still working, despite the recession. Hours of work rose even more than the number of jobs, by 25.3%, as more people became willing to work overtime, or as self-employed proprietors, or at second jobs.

Those who spent the past decade telling us that "Reaganomics" could not possibly succeed are still mystified by what happened, so they employ remarkable ingenuity and self-deception in trying to deny that it happened at all. Even now, we still hear such critics leaning on such elementary fallacies as complaining about the increase in household debts, while ignoring altogether the larger increase in both real and financial assets.

There are several statistical tricks favored by those who search in vain for ways to denigrate what was obviously the second longest and strongest expansion on record. The most common device is to compare 1980-89 with 1970-79, since the 1980s (unlike the 1970s) began with three tough years, as we wrestled with runaway inflation and brutal taxation.

Even if we switch to 1980 as a base for comparison, though, real GNP had nonetheless increased 30.8% by the third quarter of 1990, and manufacturing output was still up by 41%. No amount of statistical gamesmanship can make gains of that magnitude disappear.

MORE REAL OUTPUT

Another common trick is to compare annual rates of change with previous, much shorter, cycles—as though the durability of an expansion makes no difference whatsoever. The inflationary 36-month 1971-73 expansion, and the similar 58-month 1975-80 expansion, did indeed show rapid annual rates of increase in certain data—especially prices and inventories. But a 4.2% rate of economic growth over 92 months adds up to a lot more real output, income and accumulated wealth than any conceivable rate of growth over 36 or 58 months.

Facts are often politically inconvenient, but the facts about this expansion just won't go away. Call it dumb luck or smart policies, the prolonged U.S.-led expansion of 1983-1990 must go down in the history books as one of the most impressive economic performances on record.■

INFUSINO PRIZE LECTURESHIP IN CANCER RESEARCH

• Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Thomas P. Infusino, whom I have known for many years, for his commitment to the fight against cancer. On May 16, 1991, Tom will be honored by the creation of the Infusino Prize Lectureship in Cancer Causation and Epidemiology by the Wakefern Food Corp.

For 20 years, Tom has been chairman of Wakefern, the cooperative serving ShopRite supermarkets in New Jersey and five other States. Yet, Tom has distinguished himself not only in business and industry, but in his dedication to the community and to civic endeavors, particularly his support for cancer research.

The Infusino Prize of \$10,000 annually will be administered by the Lautenberg Center for General and Tumor Immunology. The prize will be awarded each year at a different site in Wakefern's six-State region. Scientists from the United States and abroad would be eligible to compete for the award. Each winner would give his or her lecture to the general public. Scientists from leading international research centers will serve on the prize committee, which will be chaired by Dr. David Weiss.

The Infusino Prize honors Tom's leadership in the fight against cancer. Tom spearheaded Wakefern's fundraising efforts to create an endowment for basic research in cancer biology and immunology. This endowment of more than \$1 million provides funds for continuing research into one of humanity's most dreaded diseases. Few corporations have demonstrated such a strong commitment to the community.

We can all hope the Infusino Prize to be announced on May 16 will provide new impetus to our scientists who seek

to understand the cause of cancer, and to help us find cures.

I join Tom's wife Estelle, the whole Infusino family, and his many friends and colleagues, as they celebrate this honor to a man who has set an example of service to others.■

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mr. BYRD. Mr. President, this request has been cleared with the leaders on both sides.

I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2251.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2251) making dire emergency supplemental appropriations from contributions of foreign governments and/or interest for humanitarian assistance to refugees and displaced persons in and around Iraq as a result of the recent invasion of Kuwait and for peacekeeping activities, and for other urgent needs for the fiscal year ending September 30, 1991, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD. Mr. President, I have certain amendments which I will offer on behalf of other Senators and myself. These have been cleared on both sides.

I ask unanimous consent that no other amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the time on the bill and the amendments thereto be limited to not to exceed 20 minutes to be equally divided between Mr. HATFIELD and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mr. ROCKEFELLER assumed the chair.)

Mr. BYRD. Mr. President, H.R. 2251 provides appropriations totaling \$487,000,000 in budget authority and \$367,269,000 in outlays. Of this amount, \$150,500,000 in budget authority is provided from the Defense Cooperation Account for emergency international disaster assistance, emergency refugee assistance, and emergency peacekeeping activities in the Persian Gulf region. Senators will recall that the Defense Cooperation Account contains the contributions of our allies in the Desert Shield/Desert Storm effort.

Appropriations totaling \$320,500,000 are to be derived from the Persian Gulf regional defense fund to cover the DOD costs of the refugee relief effort.

The bill also contains \$85,000,000 for reimbursement of international disaster and refugee assistance accounts drawn down in support of Kurdish aid.

All of the funds provided in the bill are within the limitations for DOD and for international affairs for fiscal year 1991 and will not break the caps nor cause a sequester.

The bill also contains a provision requiring OMB to submit a report on domestic disaster assistance needs within 10 days after enactment. Mr. President, Senator HATFIELD and I have been working with the administration on determining the amount of emergency funding that will be needed to cover these disasters. On May 1, 1991, I wrote a letter to OMB Director Darman concerning the funding shortfall for programs such as the disaster relief fund of the Federal Emergency Management Agency [FEMA]. Mr. Darman responded on May 7, 1991. In his response, Mr. Darman indicated that "it is highly likely that we will recommend a FEMA supplemental of some amount. It is also likely that we will recommend a further Desert Shield/Storm supplemental."

In light of the need for OMB to complete its assessment of domestic disaster assistance needs, and in order to work out acceptable funding levels so that these domestic needs will be treated as "emergencies" under the Budget Enforcement Act, I urge my colleagues to withhold such amendments on this bill. To do otherwise would likely cause a sequester on all domestic discretionary programs and this would cut into our domestic discretionary outlays in fiscal year 1992 and beyond.

Mr. President, this dire emergency supplemental appropriations bill supports the policy of the United States, to provide emergency relief, support and relocation of the Kurdish refugees in northern Iraq. This unusual, but absolutely necessary and commendable action, swiftly put into place by the Department of Defense, has been joined in by many other nations—a wide combination of nations, including our coalition partners in Desert Storm, but also other nations, international private relief organizations and the United Nations.

The care, feeding, sheltering, medical relief, and counseling of some half a million Kurds in the high mountains on the Iraq-Turkish border have been accomplished through a professional, humane, and even heroic effort by United States military forces. Senators and staff who have traveled to the region within the last few days have reported to me that our efforts have stabilized the situation, saving hundreds and perhaps thousands of Kurds, particularly children from what otherwise would have been certain death. I am particularly proud of the role that U.S. Special Forces men and women have played, living in the makeshift camps on those high mountains, organizing the distribution of food, developing a sense of confidence in those people that their future is not hopeless. I am also

told that our forces there have high morale and are very proud of the role that they are playing. In addition, we are, together with our allied partners, establishing a security zone in northern Iraq that will provide some safety for the return of those people, having been driven by desperate fear from the marauding destruction of Iraqi Armed Forces.

Mr. President, it is unclear where American policy will go from here. In the rush to stabilize the situation, long-term questions naturally have been delayed and are only now coming into focus. How long will America provide the lion's share of the guarantee of Kurdish survival? What will be the cost of our efforts beyond May 31? How effective will the turnover of security responsibility from the U.S.-led coalition to the United Nations be?

Mr. President, the United States has done absolutely the right thing to provide for and, in effect, guarantee the survival of those Kurdish refugees. That is the message of our presence and our operations in establishing an adequate security zone in northern Iraq, and in our effort to convince the Kurdish people to come down from their mountain sanctuary and resume normal life in their towns and farms in northern Iraq. Our policy does not mean that we are going to dictate the politics or economics of that region, or that we are taking sides in traditional rivalries, or supporting claims of any kind by the various parties in the region. It does not mean that we are going to support, indefinitely, an American occupying force in that region. That is a matter which demands a long-term solution under the United Nations umbrella, and may or may not include the presence of peacekeeping forces, or other forces under that umbrella to ensure that Saddam Hussein does not try to resume his armed attacks against the Kurds. We should not stay on any longer than it takes for the international community and the U.N. High Commission for Refugees to get their acts together. The transition should occur rapidly, consistent with the need to guarantee the survival of the Kurds, but not so as to entangle the United States in the prospects of redrawing lines of national sovereignty in that region.

Mr. President, I also commend the actions of the Government of Turkey and the people of Turkey in this effort. Despite isolated press reports of incidents involving Turkish troops, the overall efforts by Turkey have been consistent with her effort from the opening hours of this war, which has been to rise to the occasion, to do her duty, and to make a central and continuing contribution to resolving problems. I am told that Turkish villages on the Iraqi border have provided all kinds of relief to the refugees. The Turkish Government has allowed Turk-

ish bases and territory to literally be taken over by more than 10,000 United States forces, allied forces of many nations, and international organizations to organize this tremendous, unprecedented relief operation. It would not have been possible to succeed as we have without that support. I say, this, Mr. President, knowing that there have been historical tensions and problems between Turkey and the Kurds—this is all the more reason to commend the Government of President Turgut Ozal, for providing the support that it has given.

Mr. President, we came to the relief of the Kurds because it was the right thing to do. I believe that we incurred substantial responsibility, other than on moral grounds, to engage in this operation. First, this mass human migration was an outcome of the war, an outcome of the devastation that Saddam Hussein invited, and got, from the United States and our partners. The Kurds, then are in some sense, victims of that war, and in helping them, we are responsibly acting to attend to one unfortunate outcome of our actions. Second, we encouraged the Kurds, perhaps indirectly, to revolt against the Iraqi regime, and they may have presumed that we would come to their aid, and relied on the words of President Bush to assume that we would support their revolt.

Now, Mr. President, the legislation that is before us provides that the American taxpayer pay 100 percent of the costs of the Department of Defense in this relief effort, some \$320.5 million, as calculated through the end of May. We are going to be there well beyond the end of May, certainly into the summer, in all likelihood, before we can extract ourselves and leave the security task to the United Nations. So there will be further costs, perhaps amounting to several hundred additional millions of dollars. The administration, in making the request in the way it has, is saying that the money our allies have so far contributed to the American war effort should not be going to the Kurdish relief, so the taxpayer is paying for it. I suppose the rationale for this is that it is not a direct cost of the war, and the allies are contributing some forces and supplies bilaterally to the relief operation. While this may be true, the facts are that American taxpayers are footing almost the whole tab. And even the State Department costs, amounting to some additional \$150 million, are coming from the interest on the allied contribution account and, in a deft exercise in fine distinctions, the administration argues that the interest is U.S. money and not allied money, so the fiction is preserved that allied contributions are not being used for the American operation.

Mr. President, our allies, particularly the Persian Gulf states, are still in arrears to us for some \$17.8 billion that

they pledged to help defer the war costs. That is from a total pledge of some \$54 billion. We fully expect that our allies will help pay the war costs and keep their promise. I understand that the State Department has asked that they help pay our share of the relief effort as well. I do not have any idea whether our allies have agreed to pay any of our relief costs, but collecting from them has been a rather disappointing experience to date. In addition, I understand that the money pledged by the Persian Gulf states to Turkey to help defer her war costs are not materializing, and I hope that the Secretary of State, Mr. Baker, will continue to press and remind those states of their obligations not only to us but also to the Turks, who were so instrumental in protecting allied interests from the outset of the Iraqi attack last August 2, 1990.

Mr. President, the United States cannot remain indefinitely in northern Iraq and we have to set up an international guarantee of Kurdish survival that is not borne by the American taxpayer forever. We need to devise ways to relieve the burden on our taxpayers. We are acting rightly and superbly in Turkey and Iraq, but the American taxpayer has a right to know where it all stops. Our allies have a continuing obligation to shoulder their share of the liabilities.

Mr. President, I think it would be very appropriate for the record to state at this time how the allied financial contributions are coming along. Saudi Arabia made a total pledge of \$16.839 billion. The total received to date in cash and in kind, \$7.595 billion, or 45 percent of the commitment, leaving an amount owed by Saudi Arabia of \$9.244 billion.

Kuwait made a total pledge of \$16.006 billion, and has paid \$9.271 billion, or 58 percent of her pledge, leaving an amount owing of \$6.735 billion.

Germany made a total pledge of \$6,572,000,000. She has paid to date \$6,554,000,000, or 99.7 percent of her commitment, leaving \$18 million. Japan pledged \$10,740,000,000, has paid \$9,448,000,000, or 88 percent, leaving owed \$1,292,000,000. The total pledges to date are \$54,557,000,000. The total received to date is \$36,798,000,000, or 67 percent of the total, leaving \$17,759,000,000.

Mr. President, I ask unanimous consent that a letter dated May 1, 1991, to Richard Darman from myself and his response dated May 7, 1991, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 1, 1991.

Mr. RICHARD G. DARMAN,
Director, Office of Management and Budget,
Washington, DC.

DEAR MR. DARMAN: As the Senate Appropriations Committee prepares to take up the President's 1991 Emergency supplemental requests for the Department of Defense, the Agency for International Development, and the State Department, I want to bring to your attention two domestic disaster assistance programs which are in need of substantial additional funding.

First is the Disaster Relief Fund of the Federal Emergency Management Agency. It is my understanding that as of April 10, 1991, FEMA had \$191 million available for future, yet-to-be-declared disasters. Since that date, six disasters have been declared by the President. Of these, New York and Indiana are estimated to cost \$74 million. Data is not yet available for the other four states; Texas, Maine, Kansas, and Louisiana. With the upcoming hurricane season, there may well be additional fiscal 1991 needs for this disaster assistance program.

The second program is the Emergency Crop Loss Assistance program of the Department of Agriculture, authorized in Title XXII, Section 2235 of the Food, Agriculture, Conservation, and Trade Act of 1990. This section authorizes "such sums as may be provided for in appropriations acts. In previous years, this program was a non-appropriated mandatory. I am advised that for the 1989 crop year, these mandatory payments totaled approximately \$1.5 billion. The Department of Agriculture has estimated 1990 disaster payments under this program could range between \$700 million and \$900 million.

I would appreciate having the Administration's assessment of these two disaster assistance programs and look forward to working with you in finding an acceptable way to address any 1991 funding shortfall for them.

With kind regards, I am

Sincerely,

ROBERT C. BYRD,
Chairman.

OFFICE OF MANAGEMENT
AND BUDGET,
Washington, DC, May 7, 1991.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S.
Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of May 1 concerning the Administration's pending supplemental request for Iraqi refugee assistance. In your letter, you identify two areas of domestic disaster assistance: the Disaster Relief Fund of the Federal Emergency Management Agency (FEMA) and the Emergency Crop Loss Assistance program of the Agriculture Department. You note specifically that these two domestic program areas may require substantial additional funding. And you ask for the Administration's assessment.

This letter is a preliminary response to your letter. I propose to provide a full assessment when we have had an opportunity to complete a systematic examination of the issues you have raised.

In the case of FEMA, I would note only the following by way of introductory response. We cannot now verify the various FEMA requests that have been discussed. It is the case that the Congress, in its regular appropriations, underfunded the Administration's requests for fiscal years 1989-91 by \$542 million. And it is troubling that the pending Congressional budget resolutions promise to continue this pattern by funding FEMA disaster relief at zero. At the same time, however, it is also clear that FEMA's internal reporting and estimating systems leave much to be desired. This is the subject of a recently-initiated OMB-FEMA "SWAT team" study. When the study is completed, we will be in a much better position to provide an informed judgment as to FEMA's true needs, and how best to fund them.

With respect to agriculture disaster assistance, I would offer only these initial observations. The Agriculture Department is using existing authority to provide disaster assistance and has not made any request to OMB for further resources. It is the case that the 1990 farm bill changed the budgetary treatment of agricultural disasters. But, at this point, I do not believe there is satisfactory basis for a suggestion that these changes re-

quire a substantial supplemental. Your letter, of course, does not make such a claim. It simply asks for our assessment. We are consulting with the Agriculture Department on this and will soon try to respond more fully.

In both these areas—FEMA and Agriculture—there are complex issues still to be sorted out.

It is my understanding that the House may intend to act this week on our pending Iraqi refugee request—and that the bill to be sent to the Senate may be a clean bill (dealing only with Iraqi refugee assistance). If so, and if the House action is satisfactory, I would hope that the Senate might act quickly and similarly on this limited matter.

I recognize, however, that this approach would leave the issues you raise still to be addressed. Although I do not now know the outcome of our further analyses, I think it highly likely that we will recommend a FEMA supplemental of some amount. It is also likely that we will recommend a further Desert Shield/Storm Supplemental. With the prospect of one or both of these requests in view, may I respectfully suggest that issues of domestic assistance be put aside for the moment. This would have two favorable effects: It would allow the Congress to move expeditiously with respect to Iraqi refugee assistance. And it would allow us time to treat the issues of domestic assistance on the basis of careful analysis.

I am led to believe that this approach could be pursued without prejudice to issues of domestic assistance, and without adverse effect on the funding of legitimate, immediate, emergency requirements. In any case, I shall provide you with further analysis in a subsequent response, and shall look forward to continuing to work with you on these issues.

With best regards,

RICHARD DARMAN.

Mr. BYRD. Mr. President, I also ask unanimous consent that the table of allied financial contributions to Desert Storm be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ALLIED FINANCIAL CONTRIBUTIONS TO DESERT STORM

(Dollar amounts in millions)

	Initial pledge (1990)	Second pledge (1991)	Total pledge	Cash	In-kind	Total received to date	Percent received	Amount owed
Saudi Arabia	\$3,339	\$13,500	\$16,839	\$4,536	\$3,059	\$7,595	45	\$9,244
Kuwait	2,506	13,500	16,006	9,250	21	9,271	58	6,735
UAE	1,000	3,000	4,000	3,570	191	3,761	94	239
Germany	1,072	5,500	6,572	5,772	782	6,554	99.7	18
Japan	1,740	9,000	10,740	8,793	655	9,448	88	1,292
Korea	80	305	385	110	44	154	40	231
Other	4	11	15	4	11	15		
Total	9,741	44,816	54,557	32,035	4,763	36,798	67	17,759

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. HATFIELD. Mr. President, I yield whatever additional time the Senator may require from my 10 minutes.

Mr. BYRD. Mr. President, I thank the Senator from Oregon. I have completed my statement, except for some amendments I am going to offer. If the Senator wishes to make a statement, I shall yield the floor.

Mr. HATFIELD. Mr. President, I leave to the chairman the description of this emergency supplemental. I will only add that the administration has, of course, fully endorsed this bill, in fact requested it and, as I understand, also supports the amendments to be proposed.

Mr. President, this also carries the support of the ranking Republican member of the Foreign Operations Subcommittee, Senator KASTEN, and the ranking Republican member of the Subcommittee on Defense from which

these two major parts come, Senator STEVENS.

Mr. President, I commend again the expeditious handling of this matter. I think it also reflects the excellent relationship that exists between the Appropriations Committee chairman, Senator BYRD, and the administration. Only a matter of a couple days ago Mr. Darman, Director of the Office of Management and Budget; Senator BYRD, chairman of the committee; myself; and Senator STEVENS, ranking Republican member of the Subcommittee on

Defense, conferred on this matter, and subsequent to that time, from that informal conversation and discussion, this bill has moved through the House and is ready to be acted on by the Senate and to be signed by the President. I think it is probably record time for handling a supplemental.

It also has some very interesting financing. As the chairman has indicated, \$235 million of this total of some almost \$600 million is being financed out of the interest produced by the special funding that was organized by the administration and the Appropriations Committee and for the posit of those contributions by foreign governments on Desert Storm, and also from the special fund that was created by the Congress through the appropriations process of a deposit fund and the principal from that fund. So it really is dealing with some rather interesting and historical funding systems, not that those systems ever make a best seller upon publication. Nevertheless, they do represent a rather historic event today as we offer this supplemental appropriations bill.

I yield the floor at this time and indicate my support on the Republican side for the amendments to be proposed by the chairman to complete the work on the supplemental.

Mr. BYRD. Mr. President, I yield such time as he may require to the distinguished Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, I thank the distinguished chairman.

Mr. President, I congratulate the distinguished chairman of the Appropriations Committee and the distinguished Senator from Oregon [Mr. HATFIELD] for getting this emergency supplemental appropriations bill to the floor so quickly.

I also thank the distinguished ranking minority member of the Foreign Operations Subcommittee, Mr. KASTEN, and his staff who worked so closely with us in getting this supplemental to the Senate floor without delay. They were instrumental in resolving concerns raised by some, both in the administration and here in the Senate, about aspects of the House bill.

As I can attest from direct observation of the Kurdish refugee camps in Turkey and Iraq during my recent visit to that region, the needs are staggering. There is no question that the administration is going to need far more to assist the Iraqi refugees than the more than \$200 million it has already drawn down from the various emergency assistance accounts in the foreign operations appropriation. These drawdowns to meet the crisis of the Kurds and other Iraqi refugees has exhausted disaster and emergency assistance accounts just as a horrendous new human tragedy has occurred in Bangladesh. Famine threatens in regions of sub-Saharan Africa. The \$235.5 million

provided in this supplemental will at least partially replenish those emergency accounts and provide some additional assistance to provide help to refugees in the Persian Gulf region.

I regret that it has taken so long for the administration to get this emergency supplemental here. I urged that this request be made in early April. Fortunately, the House acted expeditiously, and now the Senate is doing the same. It is my hope that the House will be able to accept the Senate changes, and no conference even be necessary. If a conference does prove necessary, I would hope that it will be of very short duration.

Frankly, Mr. President, it will not surprise me if the administration has to come back again even before the end of this fiscal year to ask for additional emergency refugee and disaster assistance.

Mr. President, I should note again the Senate, with the leadership of the distinguished chairman and others who have worked on this, has moved most expeditiously on this serious matter and I think most responsibly. I know other Senators wanted to add amendments on other matters and restrained from doing that because of the urgent need for this refugee aid.

I only note again, as I did in my earlier statement in April, I requested the administration come forward with such aid. I have gone into those refugee camps in Iraq. I did last week. I have been in towns in Iraq that are setting up other refugee centers. I see the terrible need. When they talk about people clinging to the mountains, they actually are.

Mr. President, I will delay no further. I am glad this bill is moving forward. Anybody who spent even the amount of time that I did there realizes how serious it is. But I hope, too, the administration will look very carefully at other refugee matters coming up and deal with those eventualities.

I yield the floor.

Mr. BYRD. Mr. President, I send to the desk certain amendments: one by myself, one on behalf of Mr. HOLLINGS and Mr. RUDMAN, one on behalf of Mr. BURDICK and Mr. COCHRAN, one on behalf of Mr. LEAHY, Mr. KASTEN, and myself. I ask unanimous consent that they be considered en bloc; that the reading be dispensed with, and that they be agreed to en bloc; that they appear in the RECORD as though individually offered and acted upon; that statements in explanation of the amendments appear appropriately in the RECORD; that the bill be considered as having been read the third time, passed, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments considered and agreed to en bloc are as follows:

AMENDMENT NO. 237

On page 3, line 11, delete: "DEFENSE COOPERATION ACCOUNT" and all that follows through the period on page 3, line 24.

AMENDMENT NO. 237

Mr. BYRD. Mr. President, the House bill appropriates \$16 million for transfer from the Defense cooperation account to be provided to the Army Emergency Relief Society, the Navy-Marine Corps Relief Society and the Air Force Aid Society as a contribution to those groups from the Secretary of Defense. My amendment strikes the House provision.

The military relief societies operate as private organizations serving active duty members, reserves and retirees, and their dependents. They provide interest-free loans and grants to families faced with emergency financial situations. The moneys can be used for paying off overdue rent and utility bills, emergency transportation needs, funeral expenses, and the like.

Funding for these loans and grants comes from individual contributions made by military members, private companies, and others. Heretofore, these groups have not received funds appropriated by the Congress.

The House's effort to provide appropriated funds for contribution by the Secretary of Defense is well-meaning but misguided. Here's why:

Allowing appropriated funds to be contributed to private relief organizations would set an unwelcome precedent. Frankly, we would be opening the flood gates to private groups making a permanent claim to Government resources.

This bill singles out three well-deserving, nonprofit relief activities, but there are a multitude of other relief organizations equally well-deserving. This is hard to justify in light of the tremendous efforts other nonprofit relief organizations have made to quell the suffering of peoples in Iraq and elsewhere.

The Congress has established other programs to care for the well-being of our military members and their dependents, including a number of benefits enacted in the Desert Shield supplemental appropriations act.

No doubt, the military relief societies deserve the support they receive. But funding a select group of private interests, however deserving, with public moneys is not the way to do it. Funding these programs is best left to the individual contributions of private citizens and companies. Further, it is my understanding that the charters of these relief organizations prohibit them from accepting Federal funds.

AMENDMENT NO. 238

On page 10, after line 15, insert:

CHAPTER IV

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION
OPERATIONS AND ADMINISTRATION

Of the funds appropriated under this heading in Public Law 101-515 and Public Law 102-27, \$159,325,000 shall be available to carry out export promotion programs notwithstanding the provisions of section 201 of Public Law 99-64.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS AND
OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this heading in Public Law 101-515, \$8,262,000 is hereby rescinded.

DEFENDER SERVICES

For an additional amount for "Defender Services", \$8,000,000, to remain available until expended.

On page 10, line 16, following "CHAPTER" strike "IV" and insert "V" and renumber sections accordingly.

AMENDMENT NO. 238

Mr. BYRD. Mr. Chairman, I ask unanimous consent that two "deficit neutral" amendments be accepted to H.R. 2251.

These amendments are intended to allow agencies under the jurisdiction of our Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Subcommittee to continue operations for the balance of this fiscal year.

First, the committee has included a provision to enable the International Trade Administration's [ITA] export promotion programs to be carried out at the level for which appropriations already have been made available. This amendment simply allows the ITA to obligate funds at the level anticipated in the fiscal year 1991 appropriations and fiscal year 1991 supplemental appropriation irrespective of the failure to enact a reauthorization for the agency.

Mr. President, if this technical amendment is not made, the ITA and the United States and Foreign Commercial Service will have to take extreme measures to curtail operations. Included would be a furlough of over 1,900 employees across the United States and overseas for 28 work days. I have included for the record a detailed summary of the actions that would have to be taken to reduce spending by the end of this fiscal year. I also should note that the committee does not concur with the Commerce Department's position that grants totaling \$6.3 million to the Tailored Clothing Technology Corp. and Materials Center are included in the definition of export promotion programs. This amendment is not required to allow those grants to go forward.

Second, at the request of the Judiciary, the committee has also added an amendment to take care of a shortfall in funding in the defender services ac-

count of the Judiciary. The defender services appropriation for fiscal year 1991 included \$73 million for panel attorney and related expert services. Projected annual obligations, which are based upon actual caseload and expenditures from October 1990 through March 1991, will reach \$83 million. The \$10 million deficiency is partially being offset by reprogramming \$2 million from the Federal public defender and community defender organization activities to the panel attorney activity. The remainder of the shortfall, \$8 million, is provided by this amendment and is offset by a rescission in the courts of appeals, district courts, and other judicial services, salaries and expenses account.

Failure to provide these additional funds could result in the denial of legal representation to persons with limited financial resources.

I ask unanimous consent that the summary above referred to be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

IMPACTS OF AUTHORIZATION CEILING OF \$146.4
MILLION FOR EXPORT PROMOTION

(Ceiling affects all operating units of ITA except Import Administration)

The authorization ceiling of \$146.4 million will have very severe impacts on ITA's ability to deliver export promotion services to American businesses. The reduction of these services will directly hurt America's ability to increase exports in key foreign markets. The most critical impacts are highlighted below:

FUNDING CRISIS WITHDRAWS \$18.2 MILLION—ITA
UNABLE TO PROVIDE ESSENTIAL SERVICES TO
U.S. BUSINESS CLIENTS—EXPORTS, THE EN-
GINE OF ECONOMIC RECOVERY, SUFFER

Hiring freeze imposed; critical skills unavailable.

Nearly all travel canceled; major events unsupported/clients unserved.

Most purchases deferred; CIMS/National Trade Data Bank not deployed.

FURLOUGH OF 1,924 ITA EMPLOYEES FOR 28
WORK-DAYS

292 staff stationed at all 48 domestic offices in 40 states will be furloughed for 28 days beginning in July.

658 staff stationed at 121 overseas posts will also be furloughed for 28 days beginning in July.

With the exception of Import Administration, ITA will have to "shut down" for several periods through the months of July, August and September.

The office closures will leave business clients unserved in the fourth quarter of the year.

CANCEL SUPPORT OF GULF RESTORATION
EFFORTS—BILLIONS IN TRADE JEOPARDIZED

Four special TDY employees on site in Saudi Arabia and Kuwait will be withdrawn.

With staff on furlough and no ability to hire new employees, ITA could not provide essential support for the Gulf Reconstruction Center, which responds to thousands of business inquiries daily.

Gulf events canceled or no U.S. pavilion in certified events (see attached list).

American firms could not get the essential information they need to successfully com-

pete for Gulf restoration business. ITA is the principal source of the business community's access to such information.

NO INCREASE IN STAFF IN JAPAN, GULF REGION,
OR EUROPE—CRITICAL POSITIONS TO GO UN-
FILLED

Current hiring freeze will cancel Commerce's plans to strengthen its staffing in the most critical foreign markets.

New hires in process for critical markets in Far East, Eastern Europe, etc. will be canceled.

Support to American firms wishing to trade in the fastest growing world markets will be insufficient.

ELIMINATE KEY COUNSELING SERVICES ITA PRO-
VIDES TO U.S. BUSINESSES—LOST OPPORTUNI-
TIES

With no funds available for client visits, ITA could not provide essential counseling and technical support services to small and medium-sized firms.

Export growth from this sector of the U.S. economy will be weakened absent this support, again, uniquely available from ITA.

STOP DEPLOYMENT OF CIMS—ALL STATES
AFFECTED

Business access to National Trade Data Bank will be curtailed, further limiting export potential.

CIMS hardware will not be purchased and CIMS deployment in ITA domestic offices will cease.

Staff training on CIMS will stop and CIMS will not be usable in domestic offices throughout the country.

REDUCED ABILITY TO ENTER EUROPEAN
MARKETS

Eastern Europe Business Information Center could not provide range of information and services to firms interested in entering new markets.

No "seat at the table" in resolution of standards issues for unified EC market.

REDUCED SUPPORT FOR TRADE NEGOTIATIONS
AND EVENTS

With no funds for travel or research, ITA will not be able to adequately support structural impediments initiative with the Japanese; resumption of GATT talks; negotiation of a U.S.-Mexico Free Trade Agreement.

Trade missions and events throughout the world will be canceled or drastically reduced with major disruptions to the business community and potential losses of billions in exports (see attached list of events).

AMENDMENT NO. 239

On page 11, line 2, delete: "are off budget." and insert in lieu thereof:

are within the limits of the Budget Enforcement Act of 1990.

SEC. . Notwithstanding any other provision of law, not to exceed 15 per centum of the funds made available for any title of the Agricultural Trade Development and Assistance Act of 1954 by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991, may be used for purposes of title II of the Agricultural Trade Development and Assistance Act of 1954.

AMENDMENT NO. 239

Mr. BYRD. Mr. President, the President's requested appropriations to provide aid to refugees and displaced persons includes a provision to waive existing restrictions on the transfer of funds among Public Law 480 titles for fiscal year 1991 only. The agriculture appropriations bill for 1991 includes a

provision limiting such transfers between titles to 10 percent.

The provision I am recommending does not go as far as the President requested in that it does not waive all restrictions on transfer authority. It merely increases the current 10-percent limit to 15 percent.

AMENDMENT NO. 240

On page 4, line 24, strike all after the period through the period on page 9, line 12, and insert in lieu thereof:

only from the interest payments deposited to the credit of such account, \$150,500,000, which shall be available only for transfer by the Secretary of Defense to "International Disaster Assistance", "Migration and Refugee Assistance", "United States Emergency Refugee and Migration Assistance", and "Contributions to International Peacekeeping Activities", as follows:

FUNDS APPROPRIATED TO THE PRESIDENT

BILATERAL ECONOMIC ASSISTANCE

INTERNATIONAL DISASTER ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "International Disaster Assistance", \$67,000,000, of which \$27,000,000, shall be derived by transfer of interest payments from the Defense Cooperation Account, to remain available until expended, which amount shall be used for emergency humanitarian assistance for Iraqi refugees and other persons in and around Iraq who are displaced as a result of the Persian Gulf conflict, and for other international disaster assistance purposes outside the Persian Gulf region: *Provided*, That assistance under this heading shall be provided in accordance with the policies and authorities contained in section 491 of the Foreign Assistance Act of 1961.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

(TRANSFER OF FUNDS)

For an additional amount for "Migration and Refugee Assistance", \$75,000,000, to be derived by transfer of interest payments from the Defense Cooperation Account: *Provided*, That in addition to amounts otherwise available for such purposes, up to \$250,000 of the funds made available under this heading may be made available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further*, That funds made available under this heading shall remain available until September 30, 1992.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "United States Emergency Refugee and Migration Assistance Fund", \$68,000,000, of which \$23,000,000, shall be derived by transfer of interest payments from the Defense Cooperation Account to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 that would limit the amount of funds that could be appropriated for this purpose.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL PEACEKEEPING ACTIVITIES

(TRANSFER OF FUNDS)

For an additional amount for "Contributions to international peacekeeping activities", \$25,500,000, to be derived by transfer of interest payments from the Defense Cooperation Account, to remain available until September 30, 1992.

ECONOMIC SUPPORT FUND

(RESCISSION)

Of the unearmarked funds previously appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513), under the heading "Economic Support Fund", \$85,000,000 is hereby rescinded.

GENERAL PROVISIONS—CHAPTER II

SEC. 201. The authority provided in this chapter to transfer funds from the Defense Cooperation Account is in addition to any other transfer authority contained in any other Act making appropriations for fiscal year 1991: *Provided*, That the costs for which transfers are provided herein are costs associated with Operation Desert Storm.

SEC. 202. Funds transferred or otherwise made available pursuant to this Act may be made available notwithstanding any provision of law that restricts assistance to particular countries.

SEC. 203. Funds transferred or otherwise made available pursuant to this chapter for International Disaster Assistance and the United States Emergency Refugee and Migration Assistance Fund may also be used to reimburse appropriations accounts from which assistance was provided prior to the enactment of this Act.

SEC. 204. Amounts obligated for fiscal year 1991 under the authority of section 492(b) of the Foreign Assistance Act of 1961 to provide international disaster assistance in connection with the Persian Gulf crisis shall not be counted against the ceiling limitation of such section.

SEC. 205. The value of any defense articles, defense services, and military education and training authorized as of April 20, 1991, to be drawn down by the President under the authority of section 506(a)(2) of the Foreign Assistance Act of 1961 shall not be counted against the ceiling limitation of such section.

AMENDMENT NO. 24.

Mr. BYRD. Mr. President, I have an amendment to strike the entire House language in chapter II of the supplemental and to replace it with Senate language making a number of changes. These changes are as follows:

First, we clarify that the entire \$235.5 million for these emergency disaster and refugee needs can be transferred only from the interest on contributions to the Defense Cooperation Account. None of the funds can come from actual contributions to the Defense Cooperation Account.

Second, we strike the House language that offsets \$85 million of the \$235.5 million for refugee and disaster aid by a rescission of \$85 million in the Economic Support Fund. That \$85 million additional refugee and disaster assistance is also offset from interest out of the Defense Cooperation Account.

So, the language I am proposing offsets the entire \$235.5 million to provide additional assistance to help the Iraqi refugees and to replenish emergency and disaster assistance accounts drawn down to help the Iraqi refugees by a transfer from the interest accruing from the Defense Cooperation Account.

The several emergency refugee and disaster assistance accounts have been virtually exhausted already to fund relief efforts for the Kurds and other Iraqi refugees. I am informed that well in excess of \$235.5 million will be drawn from these accounts over the coming weeks. It is essential that these emergency and disaster assistance accounts be replenished.

The House would have made the funds to replenish the Migration and Refugee Account available until expended. We see no reason to give no-year money in an emergency supplemental, and we make these funds available only through September 30, 1992.

Because of the enormous strain on the administrative apparatus of the Refugee Bureau at the State Department in managing the Iraqi refugee effort, we add language permitting up to \$250,000 of the \$75,000,000 transferred to that Bureau to be used for administrative expenses.

The other modifications are minor technical and language adjustments to conform the chapter with these changes I have just explained.

Mr. President, the administration "Statement of Position" supports offsetting the \$85 million added by the House from interest on the Defense Cooperation Account in the way I have described, rather than from a rescission of ESF as proposed by the House. I also have a written assurance from OMB that there is sufficient interest from the Defense Cooperation Account to cover the entire \$235.5 million.

So the bill (H.R. 2251), as amended, was deemed read the third time and passed.

Mr. BYRD. Mr. President, I wish to thank Mr. HATFIELD, my colleague on the other side of the aisle, who is the ranking member of the Appropriations Committee, for his characteristic courtesy and cooperation, his assistance and the knowledge that he always brings to bear upon the consideration of measures from this committee.

I also wish to thank the majority leader and the minority leader for their cooperation in making it possible for the bill to be taken up today.

I wish to also thank members of the committee on both sides of the aisle. And I want to thank our very able staff from both sides of the aisle for the excellent work that has been done by staff in making it possible for us to move quickly to take up this measure, amend it, and adopt it, the House having only acted on it earlier today.

I think, Mr. President, that by acting on this bill today as we have, I am not

asking for conferees to be appointed. I hope that it may be possible for the House, and in particular the chairman of the Appropriations Committee, Mr. WHITTEN, on the other side, to consider the somewhat technical amendments that have been offered for the most part—hopefully. I also hope that the House will agree to them, and that the bill may be sent to the President.

But in the event that the House should decide to modify certain of the amendments, then by our acting so expeditiously in the Senate today, this will enable us to quickly take a look at House modifications, if there are such, and possibly accept them or modify them further if need be.

So in any event, I think that the Senate has acted appropriately, and promptly as should be done. Again I am very grateful to all whose names that I mentioned in that respect.

MEASURE TEMPORARILY LAID ASIDE—SENATE RESOLUTION 117

Mr. BYRD. Mr. President, I ask unanimous consent that Senate Resolution 117 be temporarily laid aside with the disposition of S. 100, the Central America economic assistance bill.

Mr. HATFIELD. Mr. President, it is cleared on the Republican side.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, MAY 13 AND TUESDAY, MAY 14, 1991

Mr. BYRD. Mr. President, on behalf of the majority leader, I ask unani-

mous consent that when the Senate completes its business today it stand in recess until 10 o'clock a.m. on Monday, May 13, for a pro forma session; that at the close of the pro forma session the Senate stand in recess until 10:30 a.m. on Tuesday, May 14; provided further that on Tuesday, following the time reserved for the two leaders, there be a period for morning business not to extend beyond the hour of 11 o'clock a.m. with Senators permitted to speak therein for up to 5 minutes each; that on Tuesday, at 11 a.m., the Senate proceed to the consideration of Calendar Order No. 61, S. 100, a bill to set forth U.S. policy toward Central America and to assist the economic recovery and development of that region.

I further ask unanimous consent that on Tuesday, from 11 a.m. to 12:30 p.m. there be debate only on S. 100; and that when the bill is resumed on Tuesday afternoon, upon disposition of the Executive Calendar business, there be no restrictions as to consideration of the measure; provided further that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conferences.

Mr. HATFIELD. Mr. President, it has been cleared on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, MAY 13, 1991 AT 10 A.M.

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move in accordance

with the order previously entered, that the Senate stand in recess until 10 a.m. Monday, May 13.

Thereupon, the Senate, at 8:34 p.m., recessed until Monday, May 13, 1991, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 9, 1991:

THE JUDICIARY

WILLIAM HAROLD ALBRITTON III, OF ALABAMA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF ALABAMA.

MARILYN L. HUFF, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

WM. FREMMING NIELSEN, OF WASHINGTON, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WASHINGTON.

FREDERICK L. VAN SICKLE, OF WASHINGTON, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WASHINGTON.

HENRY M. HERLONG, JR., OF SOUTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA.

DEPARTMENT OF JUSTICE

RICHARD D. BENNETT, OF MARYLAND, TO BE U.S. ATTORNEY FOR THE DISTRICT OF MARYLAND FOR THE TERM OF 4 YEARS.

HARRY A. ROSENBERG, OF LOUISIANA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF LOUISIANA FOR THE TERM OF 4 YEARS.

MICHAEL CHERTOFF, OF NEW JERSEY, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NEW JERSEY FOR THE TERM OF 4 YEARS.

WILLIE GREASON, JR., OF MISSOURI, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MISSOURI.

JOSE R. MARIANO, OF GUAM, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF GUAM AND CONCURRENTLY UNITED STATES MARSHAL FOR THE DISTRICT OF THE NORTHERN MARIANA ISLANDS FOR THE TERM OF FOUR YEARS.

LARRY J. JOINER, OF MISSOURI, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF MISSOURI.